



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

सोमवार, 19 अगस्त, 2024 / 28 श्रावण, 1946

हिमाचल प्रदेश सरकार

शहरी विकास विभाग

अधिसूचना

शिमला—171002 17 अगस्त, 2024

संख्या: यू0डी0—ए(3)—14/2024—रॉल्ज—लूज.—हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश नगर निगम अधिनियम, 1994 (1994 का अधिनियम संख्याक 12) की धारा 31 द्वारा प्रदत्त शक्तियों का प्रयोग करते
106—राजपत्र / 2024—19—08—2024 (4949)

यू0डी0-ए(3)-7/2011, तारीख 23-3-2012 द्वारा अधिसूचित और राजपत्र (ई-गजट), हिमाचल प्रदेश में तारीख 24-03-2012 को प्रकाशित हिमाचल प्रदेश नगर निगम निर्वाचन नियम, 2012 का और संशोधन करने के लिए निम्नलिखित नियम बनाते हैं; अर्थात् :—

1. **संक्षिप्त नाम और प्रारम्भ।**
 - (1) इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश नगर निगम निर्वाचन (संशोधन) नियम, 2024 है।
 - (2) ये नियम राजपत्र (ई-गजट), हिमाचल प्रदेश में प्रकाशन की तारीख से प्रवृत्त होंगे।
2. **नियम 81-क का संशोधन।**

हिमाचल प्रदेश नगर निगम निर्वाचन नियम, 2012 (जिसे इसमें इसके पश्चात् 'उक्त नियम' कहा गया है) के नियम 81-क के उप-नियम (5) के पश्चात् निम्नलिखित उप-नियम (6) जोड़ा जाएगा,—

“ (6) राजनैतिक दल, जिन्होंने नियम का निर्वाचन अपने चिन्हों पर लड़ा है, सम्पूर्ण निर्वाचन प्रक्रिया का अनुपालन करने के लिए निर्वाचन प्रारम्भ होने से पूर्व इन नियमों से संलग्न प्ररूप-51 में प्राधिकृत एजेंट नियुक्त कर सकेंगे।”
3. **नियम 81-ख का उक्त नियमों के नियम 81-ख में उप-नियम (1) के खंड (ग) के संशोधन।**

उक्त नियमों के नियम 81-ख में उप-नियम (1) के खंड (ग) के स्थान पर निम्नलिखित रखा जाएगा:—

“(ग) क्रास चिन्ह (X) लगाने के पश्चात् पार्षद उस राजनैतिक दल, जिसके चिन्ह पर ऐसे पार्षद ने चुनाव लड़ा है, के प्राधिकृत एजेंट को क्रास चिन्ह (X) लगाए मत पत्र दिखाएगा, तत्पश्चात् पार्षद मतपत्र की तह लगाएगा और यदि वह प्राधिकृत एजेंट को अपना क्रास चिन्ह (X) किया मतपत्र नहीं दिखाता/दिखाती है तो यह समझा जाएगा कि ऐसे व्यक्ति(व्यक्तियों) ने राजनैतिक दल द्वारा जारी निर्देशों के विरुद्ध जाकर मतदान किया है, और ;

आदेश द्वारा,

देवेश कुमार,
प्रधान सचिव (शहरी विकास)।

प्ररूप-51
(नियम 81-क देखें)

महापौर/उप-महापौर के पद का निर्वाचन

नगर निगम

मैं.....पार्टी का जिला अध्यक्ष/महासचिव, नियम 81-ख के अधीन निम्न व्यक्ति को समस्त निर्वाचन प्रक्रिया के अनुपालन के लिए पार्टी का प्राधिकृत अभिकर्ता(एजेंट) नियुक्त करता हूं। पूर्वोक्त प्राधिकृत एजेंट/एजेंटों के फोटोग्राफ नीचे चिपकाए गए हैं और मेरे हस्ताक्षर और मुद्रा से अनुप्रमाणित हैं।

प्राधिकृत एजेंट का नाम

प्राधिकृत एजेंट का पता

पार्टी अध्यक्ष/महासचिव के हस्ताक्षर

मैं ऐसे प्राधिकृत एजेंट के रूप में कार्य करने के लिए सहमत हूं।

प्राधिकृत एजेंट के हस्ताक्षर

फोटोग्राफ
के लिए स्थान

[Authoritative English text of this Department's Notification Number UD-A(3)-14/2024-Rules-loose, dated 17-08-2024 as required under Article 348 (3) of the Constitution of India].

URBAN DEVELOPMENT DEPARTMENT

NOTIFICATION

Shimla-171002, the 17th August, 2024

No. UD-A(3)-14/2024-Rules-loose.—In exercise of powers conferred by Section 31 of the Himachal Pradesh Municipal Corporation Act, 1994 (Act No. 12 of 1994) and in consultation with the State Election Commission, Himachal Pradesh, the Governor, Himachal Pradesh, makes the following rules further to amend the Himachal Pradesh Municipal Corporation Election Rules, 2012 notified *vide* this Department Notification No. UD-A(3)-7/2011, dated 23-03-2012 and published in Rajpatra, Himachal Pradesh on 24-03-2012, namely:—

1. **Short title and commencement.** (1) These rules may be called the Himachal Pradesh Municipal Corporation Election (Amendment) Rules, 2024.

(2) These rules shall come into force from the date of publication in Rajpatra (e-Gazette), Himachal Pradesh.

2. Amendment in Rule-81-A

In the Himachal Pradesh Municipal Corporation Election Rules, 2012 (hereinafter referred to as the said rules), in rule 81-A, after sub-rule (5), following sub-rule (6) shall be added.—

“(6) the Political Parties, which have contested the election of the Corporation on their symbols can appoint Authorized “Agent” in Form-51, appended to these rules before the commencement of the election to observe the entire election process”.

3. Amendment in Rule 81-B

In Rule 81-B of the said rules, for the clause (c) of sub-rule (1) , following shall be substituted:—

“(c) after making cross, the Councillor shall show the cross marked Ballot Paper to the Authorized Agent of the Political Party on whose symbol such councillor has contested election, thereafter councillor shall fold the ballot paper and if he/she does not show his/her cross marked ballot paper to the Authorized Agent, then it shall be deemed that such person(s) have voted contrary to the directions issued by the Political Party, and;

By order,

DEVESH KUMAR,
Principal Secretary (UD).

FORM- 51

(See Rule 81-A)

Appointment Letter

Election of office of the Mayor/Deputy Mayor,

Municipal Corporation

I District President /General Secretary of Party do hereby appoint the following person as the authorised agent of the party to observe the entire election process under rule 81-B. Photographs of the aforesaid authorised agents are pasted hereunder and is attested under my hand and seal.

Name of the authorised agent

.....

Address of the authorised agent

.....

Signature of President/ General Secretary of the party

.....

I, agree to act as such authorised agent.

.....Signature of the authorised agent.

Space for the
Photograph**ELEMENTARY EDUCATION DEPARTMENT****NOTIFICATION***Shimla-2, the 16th August, 2024*

No.EDUC-A03/1/2024.—The Governor, Himachal Pradesh is pleased to order the creation of 245 post of Special Educator in the Education Department, as under:—

Sl. No.	Name of post	No. of posts	Pay scale
1.	Special Educator (for Pre-Primary to Class-V).	138	Level 8, Cell-I, of pay matrix of the time scale of the post, as per H.P. Civil Services (Revised Pay) Rules, 2022.
2.	Special Educator (for Class-VI to Class-XII).	107	Level 10, Cell-I, of pay matrix of the time scale of the post, as per H.P. Civil Services (Revised Pay) Rules, 2022.
Total..		245 posts	

The expenditure on these posts shall be debit able under Head of account-2202-General Education, 01-Elementary Education, 101-01-Govt. Primary Schools, 101-03-Govt. Middle Schools.

By order,

Sd/-
(RAKESH KANWAR),
Secretary (Education).

LABOUR AND EMPLOYMENT DEPARTMENT**NOTIFICATION***Dated, 29th February, 2024*

No. LEP-A006/07/2021-LEP.—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Judge, Labour Court, Dharamshala on the website of the Printing & Stationery Department, Himachal Pradesh *i.e.* “e-Gazette” :—

Sl. No.	Case No.	Petitioner	Respondent	Date of Award/Order
1.	Ref. 212/16	Sh. Lal Chand	D.F.O. Mandi	06-11-2023
2.	Ref. 443/15	Sh. Dawa Ram	D.F.O. Pangti at Killar	06-11-2023
3.	Ref. 596/15	Sh. Mahatam Chand	E.E. HPPWD, Killar	09-11-2023
4.	Ref. 211/15	Sh. Hukam Chand	E.E. I & PH/ HPPWD, Killar	30-11-2023
5.	Ref. 48/19	Sh. Neel Chand	Suptd. H.P. SEBL, Dalhousie	30-11-2023
6.	Ref. 84/19	Sh. Mustaq Ali	Project Head, GMR, Bajoli Hydro Power, Bharmour, Chamba.	30-11-2023

By order,

Sd/-
(DR. ABHISHEK JAIN, IAS),
Secretary (Lab. & Emp.).

IN THE COURT OF SH. NARESH KUMAR, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 212/2016
Date of Institution : 11-04-2016
Date of Decision : 06-11-2023

Shri Lal Chand s/o Shri Bhime Ram, r/o Village Chhahari, P.O. Balu, Sub-Tehsil Aut,
District Mandi, H.P.Petitioner.

Versus

The Divisional Forest Officer, Forest Division Mandi, District Mandi, H.P.Respondent.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner :	Sh. N.L. Kaundal, Ld. AR
	Sh. Vijay Kaundal, Ld. Adv.
For the respondent(s) :	Sh. Anil Sharma, Ld. Dy. D.A.

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, for short (hereinafter referred to as 'the I.D. Act') to this court for adjudication:—

"Whether alleged termination of services of Sh. Lal Chand s/o Sh. Bhime Ram, Village Chhaharti, P.O. Balu, Sub-Tehsil Aut, Distt. Mandi, H.P. from 1-7-2013 by Divisional Forest Officer, Forest Division Mandi, Distt. Mandi, H.P. who had worked as Beldar on daily wages basis during the year 2007 to 2013 raised his industrial dispute *vide* demand notice dated nil (received in the Office of the Labour Officer Mandi on September 2014) after 1 years, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period as above and delay of one year in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was engaged by the respondent on muster roll basis as daily wage worker *w.e.f.* January 2007 without any appointment letter and he intermittently worked under Range Forest Officer, Range Office Panarsa upto 2013. During this period he was given fictional breaks by the respondent from time to time so that he might not complete 240 days in each calendar year for the purpose of continuous service as required under Section 25-B of the I.D. Act. He, however, has completed 240 days in the year 2009 and 2010 and as such he is duly covered under Section 25-B of the I.D. Act and thus entitled to the protection under Section 25-F of the I.D. Act. The respondent has illegally terminated his services in the year 2013 without serving any show cause notice or charge sheet upon him or paying one month's wages in lieu of notice period and retrenchment compensation. The respondent has retained workmen junior to him while terminating his services and has also appointed fresh hands after his termination without giving him the opportunity of re-employment. After termination of his services in the year 2013, he immediately approached the respondent and served demand notice on the respondent in the year 2014 to reinstate him but the respondent did not reinstate him. The act of the respondent giving fictional breaks in his service and finally terminating his service in the year 2013 is highly unjustified, arbitrary, unconstitutional and against the provisions of the I.D. Act. Hence the petition.

4. The petition has resisted by the respondent by filing reply denying all the averments made in the petition. It has been denied that the petitioner was engaged *w.e.f.* January 2007 and fictional breaks were given in his service. It has been averred that the petitioner was engaged as casual labourer on bill basis in Panarsa Range *w.e.f.* March 2007 for carrying out various seasonal forestry work. He intermittently worked *w.e.f.* March 2007 upto 2013 on bill basis and on muster roll basis. The petitioner has not completed 240 days in any calendar year and no fictional breaks were given in his services. He was engaged as part-time sweeper from July 2009 to December 2010 on hourly basis. He was never forced to work as part-time worker but he willingly worked on part-time basis. The part-time work was awarded to him so that he could continue his service. The

petitioner has not worked in the year 2011. The petitioner was not in continuous service and thereafter there was no necessity to serve notice upon him as per provisions of Section 25-F of the I.D. Act. The services of the petitioner were never terminated, rather he himself left the work at his own sweet will after 2013. Neither the workmen junior to the petitioner were retained nor engaged. The forest works are seasonal in nature which require engagement of labour intermittently and not regularly for the whole year. The work is provided as per availability of work and funds and on the basis of principle of 'last come first go'. As and when the petitioner approached the department, he was provided work. After denying all other allegations, it has been prayed that petition be dismissed.

5. In rejoinder filed by the petitioner, the averments made in the petition have been reaffirmed after refuting those of the reply contrary to the averments made in the claim petition.

6. On the pleadings of the parties, following issues were framed on 06-5-2022:—

1. Whether the termination of services of the petitioner 01-07-2013 by the respondent is violation of the provisions contained in under Section 25-F of the Act, as alleged? ..OPP
2. Whether the respondent has violated the provisions contained under Section 25-G and 25-H of the Act, as alleged? ..OPP
3. If issues No.1 & 2 are proved in affirmative, to what relief the petitioner is entitled to? ..OPP
4. Whether the claim petition is not maintainable, as alleged? ..OPR
5. Relief.

7. The petitioner was called upon to lead evidence. The petitioner appeared as PW1 and closed the evidence.

8. On the other hand the respondent has examined Divisional Forest Officer Sh. Vasu Doegar as RW1 and closed the evidence.

9. I have heard the Learned Counsel for the parties and gone through the case file carefully.

10. For the reasons to be recorded hereinafter, the findings on the above issues are as under:—

Issue No. 1	:	No
Issue No. 2	:	Partly Yes
Issue No. 3	:	Reinstatement with Consequential services benefits including seniority except back wages.
Issue No. 4	:	No
Relief	:	Petition is partly allowed per operative part of the Award.

REASONS FOR FINDINGS

Issues No. 1 to 3

11. All these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

12. The petitioner has claimed that he was engaged by the respondent on muster roll basis as daily wage worker *w.e.f.* March 2007 and he intermittently worked with the respondent upto 2013 and during this period fictional breaks were given in the services in order to ensure that he does not complete 240 days in each calendar year and that the respondent illegally terminated his services without serving any notice upon him or payment of wages in lieu of notice period or retrenchment compensation and also in violation of principle 'last come first go' as many workmen junior to him were retained and fresh hands were also appointed without giving him opportunity for re-employment.

13. On the other hand, the respondent has refuted the claim of the petitioner. The plea of the respondent is that the petitioner was engaged as casual labourer on bill basis in Panarsa Forest Range in the month of March 2007 for doing seasonal work and he intermittently worked *w.e.f.* March 2007 to 2013 on bill basis and muster roll and he also worked as part-time sweeper from July 2009 to December 2010. He has not completed the services of 240 days in any calendar year and he has left the work at his own sweet will and no junior to him were retained nor any fresh hands were appointed and thus the petitioner is not entitled to any relief as claimed by him.

14. The petitioner Lal Chand appeared as PW1 and filed his affidavit Ext. PW1/A in examination-in-chief wherein he has affirmed all the averments made in the petition. In his cross-examination he has denied that he was engaged on bill basis in the month of March 2007 and he intermittently worked from March 2007 to 2013 on bill basis. He has also denied that he never completed 240 days in any calendar year and no fictional breaks were given in the services and that he was in the habit of absenting himself from the job. He has also denied that he was engaged as sweeper on hourly basis in the month of July 2009 to December 2010 and he had left the work on his own and his services were never terminated. He has also denied that no fresh hands were engaged after his termination and no junior were retained. He has also denied that forest work was seasonal in nature.

15. On the other hand, the respondent has examined Shri Vasu Doegar posted as Divisional Forest Officer Mandi as RW1. He has filed his affidavit Ext. RW1/A in his examination-in-chief wherein he has affirmed the case of the respondent. He has also tendered the copy of seniority list Ext. RW1/B, letter dated 22-5-2010 Ext. RW1/C, seniority list as on 1-6-2009 Ext. RW1/D, letter dated 29-7-2011 Ext. RW1/E, another seniority list as on 31-7-2011 Ext. RW1/F, mandays/attendance of petitioner Ext. RW1/G and seniority list as on January 2016 Ext. RW1/H in evidence. In his cross-examination he has denied that the petitioner was engaged as daily wager in January 2007 by the department. Since the petitioner was engaged on bill basis, no appointment letter was issued to him and no terms and conditions were settled as it was not required in that case. The petitioner has not given any willingness in writing to the department to work on bill basis. The bills have not been produced on record. The list of bills Ext. RW1/G has been prepared and the original bills have been brought by him. He has admitted that the number of working days of the workmen, who are engaged on muster rolls basis, are mentioned in the mandays chart. He has admitted that the petitioner has worked on muster roll in July 2007, December, 2007, January 2008 to March 2008 and July 2008. He has stated that some work was available on muster rolls and as such muster rolls have been issued in favour of the workmen. He has admitted that mandays have been shown in Ext. RW1/G and number of days have also been mentioned therein. He has admitted that no notice was served upon the petitioner in the year 2013 and added that it was not required. He has admitted that no appointment letter was issued to the petitioner when his services were taken as part-time sweeper and added that it was work on bill basis and there was no need to issue appointment letter. He categorically admitted that workmen shown in seniority list Ext. RW1/D

have been regularized and that the workmen shown at serial No. 352 to 639 are junior to the petitioner. He has stated that Ext. RW1/D is circle level list of various Divisions and no workman of their Division is mentioned in this list. No notice was served upon to the petitioner nor his explanation was called for. There is no letter on record to show that the petitioner was apprised the principle of 'first come last go' when he absented himself. He has denied that the petitioner has not left the work at his own.

16. Thus it is evident from the resume of evidence of Shri Lal Chand PW1 and Shri Vasu Doegar, RW1 that the petitioner Lal Chand has claimed that he worked under the respondent from January 2007 to the year 2013 whereas RW1 Shri Vasu Doegar stated that the petitioner intermittently worked with the department from March 2007 to 2013 and he has proved the mandays chart Ext. RW1/G of the petitioner on record and the contents thereof have not been disputed on behalf of the petitioner; rather the petitioner has accepted the same to be correct by suggesting to RW1 that as per mandays chart Ext. RW1/G he has been shown to have worked on muster roll in July 2007 December 2007, January 2008 to March 2008 and July 2008 and that the mandays have been shown in Ext. RW1/G which has been admitted to be correct by RW1.

17. Therefore, in the absence of any other cogent evidence led by the petitioner, the period shown in the mandays chart Ext. RW1/G has accepted to be correct.

18. It would be evident from perusal of the mandays chart Ext. RW1/G that the petitioner was engaged in the month of March 2007 on bill basis and he worked till June 2013. The petitioner has worked for 150 days in the year 2007, 57 days in the year 2008, 112 days from February to June 2009, 184 hours as part-time sweeper from July 2009 to December 2009 and 298 hours as part-time sweeper in 2010, 67 days in 2012 and 124 days till June, 2013.

19. The petitioner, as per mandays chart Ext. RW1/G. worked from July 2009 to December 2010 on part-time basis, the **Hon'ble Supreme Court in Divisional Manager New India Assurance Vs. A. Sankaralingam AIR 2009 SC 309** has held that a part time workman would fall within the definition of 'workman' under section 2(s) of the I.D. Act and would be entitled to the benefit of continuous service under section 25 B and the benefit of section 25 F the I.D. Act' and thus the services of the petitioner as part-time sweeper from July 2009 to December 2010 shall be counted for the purpose of continuous service. But the petitioner has not worked for 240 days in any calendar year and he has also not worked for 240 days during the period of 12 months preceding the date of his alleged termination and therefore he cannot be held to be in continuous service as per the provisions of Section 25-B of the I.D. Act.

20. The petitioner has claimed that the respondent has given fictional breaks in his service so that he might not complete 240 days in each calendar year, however, he has not led any cogent evidence on record to prove the same. The petitioner has not continuously worked as forest worker; rather he has also worked as part-time sweeper from July 2009 to December 2010 and thereafter he had worked as forest worker and the petitioner has neither pleaded nor stated that he ever questioned his engagement as part-time sweeper or alleged act of the respondent of giving fictional breaks/artificial breaks in his services.

21. Hon'ble High Court in **CWP No. 1272 of 2021** titled as **State of H.P. & Ors. vs. Sanjv Vajir**, has held in paras Nos. 6 and 7 which are as under:—

"6. It would be noticed that right from the years 1999 to 2007, the respondent did work but that was only intermittent and it was after the year 2008 upto 2010 that the respondent worked for more than 240 days but abruptly in the year, 2011, the respondent only put in 156 ½ days in service. There is nothing on record to indicate

that the respondent during the relevant time had questioned the action of the petitioners on the ground that he was being given fictional/artificial breaks so as to deny the claim of the respondent for regularization, yet, the Presiding Officer has concluded that the respondent had deliberately been granted fictional/artificial breaks and the only reason for arriving at such conclusion is contained in para-26 of the award, which reads thus:—

"26. The seniority list, copy of which has been exhibited and proved on record by the petitioner as Ex.PW2/A through the statement of PW2 Shri Mukesh Kumar posted as Junior Engineer in HPPWD Division Baijnath, reveals that workmen Shri Ghanshyam and Shri Narayan Dass both were engaged in the year 2001 and since then they were being offered muster rolls for a full month until the year 2007. Indisputably, both the above named workmen are shown to be employed in HPPWD Division Baijnath. There is no explanation on the part of the respondent as to why the petitioner, who admittedly was senior to the aforementioned workmen, was not granted the muster rolls for the entire month. Be it recorded at the risk of repetition that a plea was taken by the respondent that the petitioner was being engaged as per the availability of work and funds. If that be so, then why the respondent had been providing work for the entire month until the year 2007 to the aforesaid workmen, who both were also working in the same Division? The reasons to that effect being obscure go to show that the story put forth by the respondent that the work was being provided to the petitioner as per the availability of work and funds is incorrect. It, thus, only goes to show that the respondent had either been resorting to favouritism or had been acting in a partisan manner to one set of workmen or was resorting to such process with an oblique motive of depriving the petitioner of the status and privileges of permanent workman, entitling him to regularization as per the policy of the State Government from time to time. It appears to be an act of gross discrimination which is ex- facie borne out from the record."

7. As observed above, the onus to prove the fact of fictional/artificial breaks was solely upon the respondent and merely because some other workmen who may have been engaged after the engagement of the respondent were offered muster rolls for the full month after the year, 2007 could not lead to any inference that the respondent had either been discriminated or that fictional/artificial breaks had been granted to the respondent so as to defeat his claim for regularization. The plea is otherwise negated from the man-days chart (*supra*), which goes to indicate that the respondent had been permitted to work for 364 days in the year, 2008, 350 days in the year, 2009, 302 days in 2010, 366 days in 2012, 365 days in 2013, 363 days in 2014 and 2015 and 362 days in 2016, meaning thereby, that the respondent had been engaged throughout the year".

22. Thus, in view of the law laid down by the Hon'ble High Court in above case, the onus to prove the fact of fictional/artificial breaks is on the petitioner, however, the petitioner has neither pleaded nor has led any evidence on record to prove that the respondent deliberately has given fictional breaks in his services so that he might not complete 240 days in each calendar year. The petitioner has not stated that he reported for duty/work during the period of his absence and he was not allowed to work and there is also nothing in evidence of Shri Vasu Doegar, RW1 from which it could be inferred that the respondent has deliberately given fictional breaks in service of the petitioner in order to ensure that he might not complete 240 days in any calendar year. He (RW1) categorically stated that the petitioner intermittently worked with the department and no fictional breaks were given by the department; rather the department fully cooperated with the petitioner which is evident from the fact that when no regular work was available, he was provided part-time work so that he could continue his service and his statement to this effect has not been challenged;

rather it has been suggested to him that the petitioner had not given his willingness in writing to work on bill basis and that no appointment letter was issued to the petitioner for his appointment as part-time sweeper which has been admitted by him to be correct. Thus the fact that the petitioner had worked as part-time worker during period shown in mandays chart Ext. RW1/G has also not been disputed by the petitioner. Hence, the petitioner has failed to prove that the respondent deliberately had given fictional breaks in his services so that he might not complete 240 days in each calendar year.

23. The respondent has taken the plea of abandonment of work by the respondent, however, it is fairly settled that the plea of abandonment of work is to be proved by the employer. Hon'ble High Court in **CWP No. 3634 of 2009** titled as **Narain Singh vs. The State of Himachal Pradesh &Ors.** decided on 21.6.2016, has held that voluntarily abandonment of work by a workman is required to be established by way of cogent and reliable evidence by the employer. Hon'ble High Court in **State of H.P. and Anr. vs. Partap Singh, 2016(6)ILR (HP) 1314** has held that it is settled that abandonment is not to be lightly presumed, but it has to be unequivocally proved by the employer and even if, it is presumed that the workman had abandoned the job himself and the same is a gross misconduct, in that case some disciplinary inquiry should have been initiated against the workman and the employer has to prove the same by leading evidence.

24. In the case in hand, the respondent has not led any cogent evidence on record to prove the abandonment of work by the petitioner and therefore the plea of respondent that the petitioner has left the work himself cannot be accepted. Consequently, it can safely be held that the services of the petitioner were terminated by the respondent from July, 2013. However, as has been observed above, the petitioner has not worked for 240 days during the period of 12 months preceding the date when his services were terminated, therefore, he was not in continuous service as per provisions of Section 25-B of the I.D. Act and as such the violation of Section 25-F of the I.D. Act is not proved. Hence, it can safely be held that the petitioner has failed to prove that the respondent has terminated his services in violation of the provisions of Section 25-F of the I.D. Act.

25. The petitioner has also alleged violation of Sections 25-G and 25-H of the I.D. Act. It has been pleaded by the petitioner that persons junior to him were retained in service by the respondent while terminating his services and thus principle of 'last come first go' has been violated and even the fresh hands were appointed after termination of his services and no opportunity was given to him for re-employment.

26. The petitioner Lal Chand (PW1), in his affidavit Ext. PW1/A, categorically has stated that the persons junior to him, as per seniority list of the forest worker as stood on 31-7-2011 mentioned at serial No. 296 to 555 have been retained in service at the time of termination of his services in the year 2013 and the fresh hands were also appointed by the department but he was not given opportunity for re-employment.

27. On the other hand, Shri Vasu Doegar, RW1 has stated that no person junior to the petitioner was retained and no junior to the petitioner is on roll of the Division and that the daily wage workers are called subject to availability of work and funds on the basis of principle of 'first come last go', however, in his cross-examination he categorically has admitted that the workmen shown in the seniority list Ext. RW1/D have been regularized and workmen shown at serial Nos. 352 to 639 are junior to the petitioner. Though, he has stated that the seniority list Ext. RW1/D is a circle level list and this list includes the workmen of various Divisions and no workman of their Division is mentioned in the list, yet his statement to this effect is incorrect. It would be evident from the perusal of seniority list Ext. RW1/D that Balam Ram written at serial No.445, Kula Nand written at serial No.459, Shesh Ram written at serial No. 461 were appointed on 13-9-2007. Thakur

Singh written at serial 496, Roop Singh written at serial No. 498, Chaudhari Ram written at serial No. 499, Sher Singh written at serial No.500, Bhagat Singh written at serial No.501, Fateh Singh written at serial No. 502, Dev Rup written at serial No. 527, Lekh Raj written at serial No. 529, Panna Lal written at serial No. 532, Hukkam Chand written at serial No.533, Nirmala Devi written at serial No.535, Babli Devi written at serial No. 537, Rampyari written at serial No.538, Netar Singh written at serial No.540, Balam Ram written at serial No. 544, Amar Singh written at serial No.545, Dharam Chand written at serial No.546, Gurdyal written at serial No. 547, Ram Chand written at serial No. 549, Prem Singh written at serial No. 554, Attar Singh written at serial No. 559 were engaged on 14-9-2007, Nagender written at serial No.582, Todar written at serial No. 583, Beli Ram written at serial No.584, Narotmi Devi written at serial No. 585, Dharam Singh written at serial No.587, Sunder Singh written at serial No. 588, Khube Ram written at serial No.589, Narpat Ram written at serial No.590, Kehar Singh written at serial No. 591, Bhup Singh written at serial No. 593, Paras Ram written at serial No. 594, Goverdhan written at serial No. 595, Dhanu Ram written at serial No. 599, Rawat Ram written at serial No. 600, Khem Chand written at serial No. 601, Khem Chand written at serial No. 606, Surat Ram written at serial No. 607, Bhikham Ram written at serial No. 608, Yoga Nand written at serial No. 609, Amar Singh written at serial No.610, Het Ram written at serial No. 611 were engaged on 15-9-2007, Baldassi written at serial No. 633 was engaged on 28-11-2007 and Basanti Devi written at serial No. 638 was engaged on 10-3-2008 as forest workers in Forest Division Mandi and therefore the statement of Shri Vasu Doegar, RW1 that no workman of Forest Division Mandi is mentioned in list Ext. RW1/D is incorrect. As per mandays chart Ext. RW1/G of the petitioner filed by the respondent, the petitioner was engaged in March 2007 and he intermittently worked with the respondent till June 2013 and the aforesaid workmen were engaged in the months September and November, 2007 and March, 2008, after the engagement of the petitioner as forest worker and Shri Vasu Doegar, RW1 categorically has admitted that all these workmen have been regularized which in turn proves on record that the respondent has retained the workmen junior to the petitioner in service while terminating his services and thereby violated the principle of 'last come first go'.

28. The petitioner, however, has not produced any evidence on record to prove that fresh hands were engaged by the respondent after termination of his services from July 2013.

29. Thus, in view of my above observations, the petitioner has proved on record that the respondent has terminated his services in contravention of the principle of 'last come first go'.

30. The Hon'ble Supreme Court in **Bharat Sanchar Nigam Ltd. vs. Bhuramal 2014 7 SCC 177** in para nos. 23 to 25 has held as under:—

"23. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice etc. However, when it comes to the case of termination of a daily wage worker and where the termination is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.

24. Reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section

25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily wage basis and even after he is reinstated, he has no right to seek regularization (*See: State of Karnataka vs. Uma Devi (2006) 4 SCC 1*). Thus when he cannot claim regularization and he has no right to continue even as a daily wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

25. We would, however, like to add a caveat here. There may be cases where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularized under some policy but the concerned workman terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.

31. Thus, in view of the law laid down by the Hon'ble Supreme Court in abovesaid case where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained and persons junior to daily wage worker were regularized under some policy but the concerned workman was terminated, in such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement and in such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.

32. In the case in hand, the respondent has violated the principle of 'last come first go' by retaining the juniors of the petitioner while terminating his services and there are no reasons to deny reinstatement to him, therefore, in view of law laid down by Hon'ble Supreme Court in the above said case, the petitioner is entitled to reinstatement from the date of his illegal termination with consequential service benefits including seniority except back wages as he admittedly has not worked during this period. Hence issue No.1 is decided against the petitioner and issue No. 2 is partly decided in favour of the petitioner and issue No. 3 also decided in favour of the petitioner and are answered as such.

Issue No.4

33. In view of returned findings of issue Nos. 1 to 3 above, the petition is maintainable. Hence this issue is decided against the respondent and is answered in negative.

Relief

34. In view of my findings returned on issues above, the claim petition is partly allowed. The termination of the services of the petitioner in violation of the principle of 'last come first go' is held to be illegal and is hereby set aside and the respondent is directed to reinstate the petitioner

forthwith with all consequential service benefits including seniority from the date of his illegal termination *i.e.* from July, 2013, except back wages. However, under the facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

35. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 6th day of November, 2023.

Sd/-

(NARESH KUMAR),
*Presiding Judge Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala (H.P.).*

IN THE COURT OF SH. NARESH KUMAR, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Ref. No.	:	443/2015
Date of Institution	:	29-10-2015
Date of Decision	:	06-11-2023

Shri Dawa Ram s/o Shri Amar Chand, r/o Village Hillutwan, P.O. Udeen, Tehsil Pangi, District Chamba, H.P.
..Petitioner.

Versus

The Divisional Forest Officer, Pangi Forest Division, Killar, District Chamba, H.P.
..Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner	:	Sh. Vijay Kaundal, Ld. Adv.
	:	Sh. Rajat Chaudhary, Ld. Adv.
For the respondent(s)	:	Sh. Anil Sharma, Ld. Dy. D.A.

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, for short (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

"Whether termination of the services of Shri Dawa Ram s/o Shri Amar Chand, r/o Village Hillutwan, P.O. Udeen, Tehsil Pangi, District Chamba, H.P. during August, 2008 by the Divisional Forest Officer, Pangi Forest Division, Killar, District Chamba, H.P. without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?"

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated the case of the petitioner is that he was engaged by the respondent on muster roll basis as daily wager in the year 1997 without any appointment order and he worked under Range Officer Killar and he worked till August 2008. During this period the respondent had given fictional breaks in his services in order to ensure that he might not complete 160 days in each calendar year and his services were finally terminated by the respondent *w.e.f.* August 2008 without serving any show cause notice upon him or payment of the wages in lieu of the notice period or retrenchment compensation to him whereas he has completed 160 days in some calendar year prior to his termination. So much so the persons junior to him namely Janam Singh, Amar Nath, Bhender Lal, Dina Nath, Vijay Kumar and Bhatto Devi were continuously retained in service without any break and therefore the principle of 'last come first go' has been violated. The persons working with him namely Dhyan Chand, Mehar Chand, Ramesh Kumar and Man Singh have been regularized *w.e.f.* October 2007 and person, who were engaged in the year 1997 were regularized *w.e.f.* January 2008 and as such he is also entitled for regularization after completion of 8 years service or from the date of his juniors have been regularized as per policy of the State Government. Hence this petition.

4. The petition has resisted by the respondent by filing of reply taking preliminary objections of maintainability and the claim being bad on account of delay and laches. On merits, it has been averred that the petitioner was engaged in Sach Range of Pangi Forest Division *w.e.f.* 1997 on muster roll as daily wager. The petitioner intermittently worked till the year 2008 and he had left the work on his own. It has been averred that the forestry works generally are seasonal and time bound works in nature and after plantation all the activities are discontinued except supervision and protection which is carried out through permanent staff of the department. No fictional breaks in the services of the petitioner were given; rather he himself left the work on his own. The petitioner has not completed 160 days in any calendar year and as such there was no need to serve any notice upon the petitioner. No junior to the petitioner has been retained nor engaged by the department nor the principle of 'last come first go' has been violated. The services of the daily wagers have been regularized by the department after having fulfilled the continuity criteria by them. The services of the petitioner could not be considered for regularization as he had not completed seven years continuous service with minimum 160 days in each calendar year. The petitioner had issued the demand notice in the year 2012, after almost four years without any explanation of delay on his part. Dhian Chand, Mehar Chand, Ramesh Kumar and Man Singh were senior to the petitioner. The cases of Kaka Ram, Gian Chand are pending before this court and references of Maheshi Devi, Jamuna Devi and Bhatto Devi were dismissed by this court. After denying all other allegations, it has been prayed that petition be dismissed.

5. In rejoinder filed by the petitioner, the averments made in the petition have been reaffirmed after refuting those of the reply contrary to the averments made in the claim petition.

6. On the pleadings of the parties, following issues were framed on 04-10-2018:—

1. Whether termination of service of petitioner by the respondent during August, 2008 is/was illegal and unjustified as alleged? ..OPP
2. If issue No.1 is proved in affirmative to what service benefits the petitioner is entitled to? ..OPP
3. Whether the claim petition is not maintainable as alleged? ..OPR
4. Whether the claim petition is bad on account of delay and laches on the part of the petitioner as alleged? ..OPR

Relief.

7. The petitioner was called upon to lead evidence. The petitioner besides himself he has examined Sh. Puneet, Jr. Office Assistant in the office of DFO Pangi as PW2 and closed the evidence.

8. On the other hand the respondent did not lead evidence despite ample opportunities and as such the evidence of the respondent was closed by the order of the court.

9. I have heard the Learned Counsel for the petitioner as well as learned Dy. D.A. for the respondent and gone through the case file carefully.

10. For the reasons to be recorded hereinafter, the findings on the above issues are as under:—

Issue No.1	:	Partly Yes
Issue No.2	:	Reinstatement with consequential service benefit including seniority except back wages.
Issue No.3	:	No
Issue No.4	:	No
Relief	:	Petition is partly allowed

REASONS FOR FINDINGS

Issues No. 1 to 2

11. Both these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

12. It is not in dispute between the parties that the petitioner was engaged by the respondent on muster roll as daily wager. The petitioner has claimed that he had worked under Range Forest Officer Killar whereas the respondent has submitted that the petitioner, infact, was engaged in Sach Range of Forest but under the Pangi Forest Division and thus it has been admitted by the respondent that the petitioner was engaged as daily wager in the Forest Division Pangi. It has also been admitted by the respondent that the petitioner intermittently worked with the department from 1997 upto August 2008 which facts also proved from mandays chart proved by the petitioner on record by summoning the record of the respondent which was produced by Puneet PW2, posted as Jr. Office Assistant in the office of the Divisional Forest Officer, Pangi. He has also proved on record the demand notice dated 11-4-2012 Ext. PW1/A and reply to the demand notice Ext. PW2/B.

13. The petitioner has claimed that the respondent has given fictional breaks in his services so that he might not complete 160 days in any calendar year and terminated his services *w.e.f.* August 2008, however, he has completed 160 days in some years. On the other hand, the respondent has denied to have given fictional breaks in the services of the petitioner and has claimed that he himself had left the work on his own sweet will.

14. As per mandays chart Ext. PW2/C, the petitioner had worked for 178 days in the year 1997, 206 days in the year 1998, 176 days in the year 1999, 177 days in the year 2000, 174 days in the year 2001, 140 days in the year 2002, 146 days in the year 2003, 129 days in the year 2004, 140 days in the year 2005, 150 days in the year 2006, 29 days in the year 2007 and 122 days in the year 2008.

15. Thus it is evident from mandays chart Ext. PW2/C that the petitioner had worked for more than 160 days in each calendar year from 1997 to 2001, but thereafter he had not worked for 160 days in any calendar year before alleged termination of his services by the respondent *w.e.f.* August 2008.

16. The petitioner Dawa Ram appeared as PW1 and filed his affidavit Ext. PW1/A in his examination-in-chief wherein he has affirmed all the averments made in the petition. He categorically has stated that the respondent had given fictional breaks in his service from 1997 to 2008 so that he might not complete 160 days in each calendar year for the purpose of continuous service under Section 25-B of the I.D.Act. In his cross-examination he has admitted that he intermittently worked from 1997 to 2008 in Pangi Forest Division. He has denied that he has not completed 160 days in any calendar year and that the respondent has not violated any provisions of the I.D. Act. He has denied that he has not completed 160 days in each calendar year regularly for seven years.

17. On the other hand, the respondent has not led any evidence.

18. Thus, as per the evidence of Dawa Ram(PW1), the respondent had given fictional breaks in his service. Hon'ble High Court in **CWP No. 1272 of 2021** titled as **State of H.P. & Ors. vs. Sanjv Vajir decided on 22.05.2023**, in paras Nos. 6 and 7 has held as under:—

"6. It would be noticed that right from the years 1999 to 2007, the respondent did work but that was only intermittent and it was after the year 2008 upto 2010 that the respondent worked for more than 240 days but abruptly in the year, 2011, the respondent only put in 156 ½ days in service. There is nothing on record to indicate that the respondent during the relevant time had questioned the action of the petitioners on the ground that he was being given fictional/artificial breaks so as to deny the claim of the respondent for regularization, yet, the Presiding Officer has concluded that the respondent had deliberately been granted fictional/artificial breaks and the only reason for arriving at such conclusion is contained in para-26 of the award, which reads thus:—

"26. The seniority list, copy of which has been exhibited and proved on record by the petitioner as Ex.PW2/A through the statement of PW2 Shri Mukesh Kumar posted as Junior Engineer in HPPWD Division Baijnath, reveals that workmen Shri Ghanshyam and Shri Narayan Dass both were engaged in the year 2001 and since then they were being offered muster rolls for a full month until the year 2007. Indisputably, both the above named workmen are shown to be employed in HPPWD Division Baijnath. There is no explanation on the part of the respondent as to why the petitioner, who admittedly was senior to the aforementioned workmen, was not granted the muster rolls for the entire month. Be it recorded at the risk of repetition that a plea was taken by the respondent that the petitioner was being engaged as per the availability of work and funds. If that be so, then why the respondent had been providing work for the entire month until the year 2007 to the aforesaid workmen, who both were also working in the same Division? The reasons to that effect being obscure go to show that the story put forth by the respondent that the work was being provided to the petitioner as per the availability of work and funds is incorrect. It, thus, only goes to show that the respondent had either been resorting to favouritism or had been acting in a partisan manner to one set of workmen or was resorting to such process with an oblique motive of depriving the petitioner of the status and privileges of permanent workman, entitling him to regularization as per

the policy of the State Government from time to time. It appears to be an act of gross discrimination which is *ex-facie* borne out from the record."

7. As observed above, the onus to prove the fact of fictional/artificial breaks was solely upon the respondent and merely because some other workmen who may have been engaged after the engagement of the respondent were offered muster rolls for the full month after the year, 2007 could not lead to any inference that the respondent had either been discriminated or that fictional/artificial breaks had been granted to the respondent so as to defeat his claim for regularization. The plea is otherwise negated from the man-days chart (*supra*), which goes to indicate that the respondent had been permitted to work for 364 days in the year, 2008, 350 days in the year, 2009, 302 days in 2010, 366 days in 2012, 365 days in 2013, 363 days in 2014 and 2015 and 362 days in 2016, meaning thereby, that the respondent had been engaged throughout the year".

19. Thus, in view of law laid down by the Hon'ble High Court in above said case, the onus to prove the fact that the fictional breaks/artificial breaks were given in his service by the respondent was upon the petitioner, however, the petitioner has not led any cogent evidence on record to prove the same. The petitioner except his bald statement that the respondent has given fictional breaks in his service has not led any evidence on record to prove that he ever objected to the act of the respondent of giving fictional breaks in his services or he ever reported for the duty but he was not allowed to work by the respondent and therefore, in view of the law laid down by the Hon'ble High Court in abovesaid case, it can safely be held that the petitioner has failed to prove that the respondent has given fictional breaks in his services.

20. It was not been disputed by the learned Deputy District Attorney for the respondent during course of arguments that a workmen serving in tribal area of Pangi shall be deemed to be in continuous service within the meaning of Section 25-B of the I.D. Act if he has actually worked for 160 days instead of 240 days in any calendar year during 12 months preceding the date of his retrenchment. As per mandays chart Ext. PW2/C, the petitioner had worked for 122 days in the year 2008 and 29 days in the year 2007, total 151 days in the years 2007 and 2008. Since the petitioner had not worked for 160 days during the period of 12 calendar months preceding the date when his services were terminated, he can not be held to be in continuous service as per Section 25-B of the I.D. Act. Hence, the petitioner has failed to prove that the respondent deliberately had given fictional breaks in his services so that he might not complete 2160 days in each calendar year.

21. The respondent has taken the plea of abandonment of work by the respondent, however, it is fairly settled that the plea of abandonment of work is to be proved by the employer. Hon'ble High Court in **CWP No.3634 of 2009** titled as **Narain Singh vs. The State of Himachal Pradesh &Ors.** decided on 21-6-2016,has held that voluntarily abandonment of work by a workman is required to be established by way of cogent and reliable evidence by the employer. Hon'ble High Court in **State of H.P. and Anr. vs. Partap Singh, 2016(6)ILR (HP) 1314** has held that it is settled that abandonment is not to be lightly presumed, but it has to be unequivocally proved by the employer and even if, it is presumed that the workman had abandoned the job himself and the same is a gross misconduct, in that case some disciplinary inquiry should have been initiated against the workman and the employer has to prove the same by leading evidence.

22. In the case in hand, the respondent has not examined any witness nor led any other evidence on record to prove the abandonment of work by the petitioner and therefore the plea of the respondent that the petitioner had left the work himself cannot be accepted. Consequently, it can safely be held that the services of the petitioner were terminated by the respondent from August 2008. However, as has been observed above, the petitioner has not worked for 160 days during the

period of 12 months preceding the date when his services were terminated, therefore, he was not in continuous service as per provisions of Section 25-B of the I.D. Act and as such the violation of Section 25-F of the I.D. Act is not proved. Hence, it can safely be held that the petitioner has failed to prove that the respondent has terminated his services in violation of the provisions of Section 25-F of the I.D. Act.

23. The petitioner has also alleged violation of Section 25-G of the I.D. Act. Dawa Ram, PW1 has stated that the persons junior to him namely Amar Nath, Bhander Lal, Dina Nath, Janam Singh, Vijay Kumar engaged in the year 1998 and Bhatto Devi engaged in the year 1999 were engaged continuously by the respondent without any break and thereby violated the principle of 'last come first go'.

24. On the other hand, the respondent did not step into the witness box nor examined any witness and therefore an adverse inference that had the respondent stepped into the witness box, he could not have denied the allegations of the petitioner has to be drawn against the respondent.

25. This apart, the petitioner, during pendency of the present reference/petition has filed an application under Section 11(3) of the I.D. Act. In pursuance to said application the respondent has filed the documents on 4-10-2018 and this court *vide* order dated 4-10-2018 has disposed of the application with the observations that the mandays chart of petitioner Dawa Ram and list of regular and daily wage labour were filed and the learned Deputy District Attorney for the State/respondent stated that since the petitioner was a causal worker, his name was not incorporated in the seniority list. The documents i.e. mandays chart and list of regular and daily wage labour filed on 4-10-2018 have not been tendered in evidence as the respondent did not step into the witness box but, since the list of regular and daily wage labour of Pangi Forest Division Killar duly attested by the Forest Division Killar, has been filed by the respondent., the same being document of the respondent can safely be read against the respondent without being tendered in evidence.

26. It would be evident from the perusal of list of regular and daily wage labour of Pangi Forest Division Killar Annexure-II that Janam Singh written at serial No.18, Amar Nath written at serial No.19, Bhender Lal written at serial No.20, Dina Nath written at serial No. 21 were engaged in the year 1998, Vijay Kumar written at serial No.28 was engaged in the year 1999 and Janam Singh written at serial No. 29 was engaged in the year 1998 after the engagement of the petitioner as daily wager in the year 1997 and services of Janam Singh, Amar Nath, Bhender Lal, Dina Nath have been regularized and Vijay Kumar and Janam Singh were still daily wager.

27. The petitioner, in para No.3 of the claim petition, has pleaded that Vijay Kumar and Janam Singh were retained by the respondent while terminating his services and the respondent has not denied those averments made in the petition; rather it has been pleaded that the services of daily wager has been regularized by the department after having fulfilled the continuity criteria which in turn clearly goes to show that the workmen junior to the petitioner engaged in the year 1998 and 1999 were retained by the respondent while terminating his services *w.e.f.* August 2008 and thereby violated the principle of 'last come first go'. Hence it can safely be concluded that the respondent has terminated the services of the petitioner in violation of principle of 'last come first go'.

28. Hon'ble Supreme Court in **Bharat Sanchar Nigam Ltd. vs. Bhuramal 2014 7 SCC 177** in para Nos. 23 to 25 has held as under:—

"23. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally

and/or malafide and/or by way of victimization, unfair labour practice etc. However, when it comes to the case of termination of a daily wage worker and where the termination is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.

24. Reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily wage basis and even after he is reinstated, he has no right to seek regularization (*See: State of Karnataka vs. Uma Devi (2006) 4 SCC 1*). Thus when he cannot claim regularization and he has no right to continue even as a daily wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

25. We would, however, like to add a caveat here. There may be cases where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go *viz.* while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularized under some policy but the concerned workman terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.

29. Thus, in view of the law laid down by the Hon'ble Supreme Court in abovesaid case where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go *viz.* while retrenching such a worker daily wage juniors to him were retained and persons junior to daily wage worker were regularized under some policy but the concerned workman was terminated, in such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement and in such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.

30. In the case in hand, the respondent has violated the principle of 'last come first go' by retaining the juniors of the petitioner while terminating his services and there are no reasons to deny reinstatement to him, therefore, in view of law laid down by Hon'ble Supreme Court in the above said case, the petitioner is entitled to reinstatement from the date of his illegal termination with consequential service benefits including seniority except back wages as he admittedly has not worked during this period. Hence issue No.1 is partly and issue No.2 is decided in favour of the petitioner and are answered as such.

Issue No. 3

31. In view of returned findings of issue Nos. 1 to 2 above, the petition is maintainable. Hence this issue is decided against the respondent and is answered in negative.

Issue No. 4

32. Hon'ble Supreme Court in **Prabhakar Vs. Joint Director Sericulture Department and others 2015 (15) SCC 1** has held that no period of limitation is prescribed under 'the I.D.Act' for making reference under Section 10(1) of 'the I.D.Act' but if the dispute is raised after a long period, it is to be seen whether such a dispute still exists and if the court finds that the dispute exists, it is open for the court to take the aspect of delay into consideration and mould the relief and grant reinstatement without back wages or lesser back wages or compensation instead of reinstatement.

33. Thus, in view of the law laid down by the Hon'ble Supreme Court in abovesaid case, no period of limitation has been prescribed for making reference under the I.D.Act and in view of my above said observations, the dispute raised by the petitioner is not very stale as the services of the petitioner were terminated *w.e.f.* August 2008 and he has raised the industrial dispute in the year 2012 and therefore, petition is not bad on account of delay and laches. Hence this issue is decided against the respondent and is answered in negative.

Relief

34. In view of my findings returned on issues above, the claim petition is partly allowed. The termination of the services of the petitioner in violation of the principle of 'last come first go' is held to be illegal and is hereby set aside and the respondent is directed to reinstate the petitioner forthwith with all consequential service benefits including seniority from the date of his illegal termination *i.e.* from August, 2008 except back wages. However, under the facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

35. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 6th day of November, 2023.

Sd/-

(NARESH KUMAR),
Presiding Judge Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, (H.P.).

**IN THE COURT OF NARESH KUMAR, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)
(CAMP AT CHAMBA)**

Ref. No.	:	596/2015
Date of Institution	:	19-12-2015
Date of Decision	:	09-11-2023

Shri Mahatam Chand (since diseased) through his LRs:—

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1. Smt. Sarita w/o late Shri Mahatam Chand, r/o Village Kulal, P.O. Mindhal, Tehsil Pangi, District Chamba, H.P.
 2. Shri Tulsi s/o late Shri Mahatam Chand, r/o Village Kulal, P.O. Mindhal, Tehsil Pangi, District Chamba, H.P.
 3. Sh. Vijay Kumar late Shri Mahatam Chand, r/o Village Kulal, P.O. Mindhal, Tehsil Pangi, District Chamba, H.P. ..Petitioners.

Versus

The Executive Engineer, Killar Division, H.P.P.W.D. Killar (Pangi), District Chamba, H.P.
..Respondent.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner(s) : Sh. O.P. Bhardwaj, Ld Adv.
For the respondent : Sh. Sharik Ali Shah, Ld. ADA

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, for short (hereinafter referred to as ‘the I.D.Act’) to this court for adjudication:—

“Whether the industrial dispute raised by the worker Shri Mahatam Chand s/o Shri Beli Ram, r/o Village Katal, P.O. Mindhal, Tehsil Pangi, District Chamba, H.P. before the Executive Engineer, Killar Division, H.P.P.W.D. Killar (Pangi), District Chamba, H.P. vide demand notice dated 11-04-2012 regarding his alleged illegal termination of services during September, 2005 suffers from delay and latches? If not, Whether termination of services of Shri Mahatam Chand s/o Shri Beli Ram, r/o Village Katal, P.O. Mindhal, Tehsil Pangi, District Chamba, H.P. by the Executive Engineer, Killar Division, H.P.P.W.D. Killar (Pangi), District Chamba, H.P. during September, 2005, without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above aggrieved workman is entitled to from the above employer?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was appointed as daily wage worker in IPH Sub Division Killar on muster roll basis in the year 1996 and he intermittently worked with the respondent till the year 2005 as the respondent was also DDO of IPH Sub Division Killar. The respondent time and again terminated his services by giving fictional breaks so that he might not complete 160 days in a calendar year as the Government has fixed criteria of 160 days for the purpose of continuous service under Section 25-B of the I.D. Act in the area of Pangi/Killar. The respondent has given fictional breaks in his services *w.e.f.* 1996 to 2005 with a view to deprive him permanent status which amounts to unfair labour practice. The respondent has terminated his services in the year 2005 without serving any notice upon him and without conducting any inquiry and payment of wages in lieu of notice period or retrenchment compensation. The respondent has also violated the principle of ‘last come first go’ by retaining his juniors namely Jeet Singh, Geeta Ram, Laxmi Devi, Baldev, Parkash Chand, Trilok Chand, Hari Ram and Ram Dei and even after

his termination fresh hands namely Sham Lal and Gautam Singh have been appointed without giving him an opportunity of re-employment in violation of Section 25-H of the I.D. Act. He has issued demand notice on 8.5.2012 against his illegal termination and the copy of the same was sent to Labour Officer-cum-Conciliation Officer Chamba. During conciliation proceedings his demand for reinstatement was not accepted. The appropriate Government has refused to refer the dispute to this court for adjudication which was assailed by him before the Hon'ble High Court in CWP No. 3607/2015 and the Hon'ble High Court *vide* order dated 1-9-2015 directed the Labour Commissioner to refer the dispute to this court whereafter the appropriate Government has made reference to this court. The question of delay has already been decided in the aforesaid writ petition. He is not gainfully employed anywhere in any government department or private organization from the date of his illegal termination and as such he is also entitled to back wages. It has thus been prayed that the period of breaks in his services given by the respondent from 1996 to 2005 be counted for the purpose of continuous service under Section 25-B of the I.D. Act and order of his illegal termination be set aside and the respondent be directed to reinstate him with full back wages, seniority and other consequential benefits and to regularize his services as per regularization policy framed by the Government from time to time. Hence the petition.

4. The petition has resisted by the respondent by filing of reply taking preliminary objections *qua* maintainability and delay and laches. On merits, after denying other allegations, it has averred that the petitioner, infact, was engaged as daily wage beldar in the year 1998 and he intermittently worked till 2005 and left the job on his own sweet will. No fictional breaks were given in his service. The petitioner has not completed 160 days in any calendar year as required for tribal area of Pangi Tehsil which fact is evident from mandays chart placed on the record. Neither any fictional breaks were given in service of the petitioner nor his services were terminated. Since the petitioner has not completed 160 days in any calendar year, there was no need to issue notice under Section 25-F of the I.D. Act to him. Neither junior to the petitioner were retained in service by the department nor fresh hands were engaged except as per the orders of this court. Sham Lal and Gautam Singh were engaged on compassionate grounds, and as such there is no violation of any provisions of the I.D. Act. The persons mentioned by the petitioner were re-engaged as per the directions of this court. Since the petitioner himself has left the work and he raised industrial dispute after more than seven years, he is not entitled to any relief. It has been prayed that the petition be dismissed.

5. In rejoinder filed by the petitioner, the averments made in the petition have been reaffirmed after refuting those of the reply contrary to the averments made in the claim petition.

6. On the pleadings of the parties, following issues were framed on 30-8-2017:—

1. Whether the industrial dispute raised by the petitioner *vide* demand notice dated 11-04-2012 *qua* his termination of during Sept., 2005 by the respondent suffers from the vice of delay and laches as alleged? ..OPP
2. Whether termination of the services of petitioner by the respondent during Sept., 2005 is/was illegal and unjustified as alleged? ..OPR
3. If issue no.1 or issue no.2 or both are proved in affirmative, to what service benefits the petitioner is entitled to? ..OPP
4. Whether the claim petition is not maintainable in the present form as alleged? ..OPR
5. Relief.

7. It is pertinent to mention here that the petitioner died during the pendency of petition/reference and his LRs were substituted on record vide order dated 29-9-2022.

8. The legal heir of deceased petitioner was called upon to lead evidence. The wife of deceased petitioner namely Sarita appeared as PW1 and closed the evidence.

9. On the other hand the respondent has examined Engineer Joginder Kumar as RW1 and closed the evidence.

10. I have heard the Learned Counsel for the petitioner as well as learned Dy. D.A. for the respondent and gone through the case file carefully.

11. For the reasons to be recorded hereinafter, the findings on the above issues are as under:—

Issue No.1	:	Yes
Issue No.2	:	No
Issue No.3	:	No
Issue No.4	:	Yes
Relief	:	Petition is dismissed per operative part of the Award.

REASONS FOR FINDINGS

Issues No. 1 to 3

12. All these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

13. It has not been disputed by the respondent that the petitioner was engaged as beldar by the respondent department.

14. The petitioner (since diseased) has claimed that he was engaged as beldar on daily wage basis by the respondent in the year 1996 and he intermittently worked with the respondent till September, 2005 and fictional breaks were given in his service by the respondent so that he might not complete 160 days in each calendar year for the purpose of regularization of his services and terminated his services without serving any notice upon him and without payment of retrenchment compensation to him.

15. On the other hand, the respondent has claimed that petitioner was engaged as daily wage beldar in the year 1998 and he worked intermittently with the department till 2005 and his services were not terminated by the department but he had left the work on his own and no fictional breaks were given in his service.

16. As per mandays chart Ext.PW1/B placed on record by the petitioner, the petitioner worked with the respondent from August 1998 to September 2005. The petitioner worked for 46 days in the year 1998, 57 days in the year 2000, 133 days in the year 2001, 31 days in the year 2002, 29 days in the year 2004 and 19 days in the year 2005.

17. It is evident from the perusal of mandays chart Ext.PW1/B that the petitioner had not worked for 160 days during the period of 12 months preceding the date of alleged termination of his services. The petitioner had only worked for 19 days in the month of September, 2005 and he

had not worked for even a single day in November and December 2004 and from January to August, 2005 and thus he had worked for 19 days only during the period of 12 calendar months preceding the date of alleged termination of his services in the month of September, 2005 by the respondent.

18. The petitioner has taken the plea that the respondent had been given fictional breaks in service so that he might not complete 160 days in any calendar year. Hon'ble High Court in **CWP No.1272 of 2021**, titled as **State of H.P. & Ors. Vs. SanjvVajir decided on 22-05-2023** has held that the onus to prove the fact of fictional breaks/artificial breaks is upon the petitioner and merely because some other workmen, who may have been engaged after the engagement of the respondent, were offered muster rolls for the full month, could not lead to an inference that the respondent had either been discriminated or that fictional /artificial breaks had been granted to him so as to defeat his claim for regularization.

19. In the case in hand, the petitioner's wife Smt. Sarita appeared as PW1. She has stated that the fictional breaks were given in service of her husband in such manner that he could not complete 160 days and services of her husband were unlawfully terminated in September 2005. In her cross-examination, she has denied that her husband was engaged in the year 1998. She has also denied that her husband used to remain absent for days together without any cause and he had abandoned the work without any reason. She also denied that no fictional breaks were given in service of her husband.

20. The LRs of the petitioner, except the bald statement of Smt. Sarita PW1, has not led any cogent evidence on record to prove the fact that the petitioner had worked from 1996 to 2005 and he was given fictional breaks by the respondent.

21. On the other hand, Engineer Joginder Kumar (RW1) in his examination-in-chief, has filed affidavit Ext. RW1/A wherein he has affirmed the case of the respondent. He categorically has stated that no fictional breaks were given in service of the petitioner and that he had not completed 160 days in any calendar year as required for tribal area of Tehsil Pangi and that he had worked with the department intermittently and had left the job at his own sweet will. In his cross-examination, he has denied that the petitioner worked with the respondent from the year 1996 to September 2005 and that he worked for minimum 160 days in their department and his services were terminated by the department. He was not suggested that fictional breaks were given in the services of the petitioner by the department.

22. Thus, it is evident from the resume of the evidence of Smt. Sarita (PW1) and Er. Joginder Kumar (RW1) that the LRs of the deceased petitioner have not led any cogent evidence on record to prove that the petitioner (deceased) worked with the respondent from 1996 to 2005 and fictional breaks were given in his services by the respondent so that he might not complete 160 days in any calendar year and therefore in the absence of any cogent evidence having been led by the LR's of deceased petitioner, the period shown in the mandays chart Ext.PW1/B and evidence of Er. Joginder Kumar has to be accepted to be correct. Hence in view of evidence of Er. Joginder Kumar, RW1 and mandays chart Ext. PW1/B, it is established on record that the petitioner had worked with the respondent from August 1998 to September 2005, but the petitioner failed to prove that the fictional breaks were given in his service.

23. It has not been disputed by the respondent that a workman serving in tribal area of Pangi shall be deemed to be in continuous service within the meaning of Section 25-B of the I.D.Act if he has actually worked for 160 days instead of 240 days in a calendar year during the period of 12 calendar months preceding the date of retrenchment with reference to which the calculation is to be made. Since the petitioner, as per mandays chart Ext. PW1/B had not worked

for 160 days with the respondent during the period of 12 calendar months preceding the date when his services were allegedly terminated and the LRs of the deceased petitioner have failed to prove that fictional breaks were given in service of the petitioner by the respondent, therefore, the petitioner can not be held to be in continuous service as per the provisions of Section 25-B of the I.D.Act.

24. The respondent has come up with the plea that the petitioner himself has left the work, however, it is fairly settled that the plea of abandonment of work is to be proved by the employer. Hon'ble High Court in **CWP No.3634 of 2009** titled as **Narain Singh vs. The State of Himachal Pradesh & Ors.** decided on 21-6-2016, has held that voluntarily abandonment of work by a workman is required to be established by way of cogent and reliable evidence by the employer. Hon'ble High Court in **State of H.P. and Anr. vs. Partap Singh, 2016(6)ILR (HP) 1314** has held that it is settled that abandonment is not to be lightly presumed, but it has to be unequivocally proved by the employer and even if, it is presumed that the workman had abandoned the job himself and the same is a gross misconduct, in that case some disciplinary inquiry should have been initiated against the workman and the employer has to prove the same by leading evidence.

25. In the case in hand, the respondent has not led any cogent evidence on record to prove the abandonment of work of by the petitioner and therefore plea of the respondent that the petitioner himself has left the work cannot be accepted. Consequently, it can safely be held that the respondent terminated the services of the petitioner in September, 2005. However, as has been observed above, the petitioner has not worked for 160 days with the respondent during the period of 12 calendar months preceding the date when his services were terminated, he was not in continuous service as per the provisions of Section 25-B of the I.D.Act, therefore, the violation of Section 25-F I.D.Act is not proved. Hence, it can safely be held that the petitioner failed to prove that the respondent terminated his services in violation of Section 25-F I.D.Act.

26. The petitioner has also alleged violation of the provisions of Sections 25-G and 25-H of the I.D. Act. Smt. Sarita (PW1) has stated that principle of 'last come first go' was violated and junior workmen shown in para No.4 of the claim petition were never terminated and new workmen shown in the same para were engaged after the termination of service of her husband without giving him opportunity to join the work prior to them. Similarly situated workmen were given benefits by the department after direction of this court and her husband was discriminated and therefore notional benefits be given to them as they are legal heirs of the deceased petitioner. However, in her cross-examination she has stated that she does not know that other workers were re-engaged as per the orders of the court or on compassionate ground.

27. On the other hand, Engineer Joginder Kumar (RW1) has stated that the respondent has neither engaged new persons nor junior to the petitioner were retained except as per the orders of this court and Shri Sham Lal and Gautam Singh were engaged on compassionate ground and as such there is no violation of the provisions of the I.D. Act. In his cross-examination, he has denied that junior to the petitioner were retained at the cost of the petitioner.

28. The petitioners have placed on record the mandays chart Ext. PW1/D of S/Sh. Tek Chand, Hari Ram, Ram Dei and Dev Raj, perusal of which would show that Hari Ram and Dev Raj were engaged prior to the engagement of the petitioner in the year 1998 and Tek Chand was engaged in the year 1999 and Ram Dei was engaged in the year 2003, but they were re-engaged as per the orders passed by this court.

29. The respondent has also filed the mandays chart Ext. RW1/B of Bhag Dei, Jai Dass, Ram Dei, Dev Raj, Bameshwar Dutt and Raj Kumar out of whom Bhag Dei and Ram Dei were engaged in the year 2000 and 2003 respectively and Jai Dass was engaged in the year 1998 and the

other workmen were engaged prior to the 1998, but they all have been re-engaged as per orders of this Court/Tribunal and as per evidence of Engineer Joginder Kumar, RW1, Sham Lal and Gautam were engaged on compassionate ground.

30. Thus, it is evident from mandays chart Ext. PW1/D produced by LRs of deceased petitioner and Ext. RW1/B produced by the respondent as well as evidence of the Engineer Joginder Kumar, RW1 that the workmen namely Tek Chand, Bhag Dei and Ram Dei junior to the deceased petitioner were re-engaged by the respondent as per orders of this court/Tribunal. The petitioner has not challenged the remarks given in Remarks Column of mandays chart Ext. PW1/D and mandays chart Ext. RW1/B that those workmen were re-engaged as per the orders of the court and therefore the same are to be accepted to be correct.

31. Since the aforesaid workmen were re-engaged as per orders of this court, they cannot be said to have been retained or engaged as fresh hands by the respondent in contravention of the provisions of Sections 25-G and 25-H of the I.D. Act and no law to the contrary is cited at bar. So far as Sham Lal and Gautam Singh are concerned, the LRs of petitioner have not produced any evidence on record to prove as to when they were engaged, however, as per evidence of Engineer Joginder Kumar (RW1) they were engaged on compassionate ground and therefore they can also not be said to have been engaged as fresh hands and no law to the contrary is cited at bar. Hence, the petitioner has also failed to prove the violation of Sections 25-G and 25-H of the I.D. Act.

32. Now coming to the question as whether the industrial dispute raised by the petitioner *vide* demand notice dated 11-4-2012 regarding his alleged illegal termination in September 2005 suffers from the vice of delay and laches. The petitioner, in his claim petition, has pleaded that the question of delay has been decided by the Hon'ble High Court in CWP No. 3607/2015 decided on 1-9-2015, however, the LRs of petitioner have not produced copy of the judgment on record or led any other evidence to prove that the question of delay has been decided by the Hon'ble High Court in the aforesaid writ petition. Smt. Sarita, PW1 in her substantive has not uttered even a single word with regard to the same.

33. The petitioner as per mandays chart had worked with the respondent till September 2005 and the deceased petitioner admittedly had issued demand notice on 11.4.2012 after more than six years and no explanation with regard to same has been given by the petitioner.

34. Hon'ble Supreme Court in **Prabhakar Vs. Joint Director Sericulture Department and others 2015 (15) SCC 1** in paras No.41 and 42 has held as under:—

[40] On the basis of aforesaid discussion, we summarise the legal position as under:

An industrial dispute has to be referred by the appropriate Government for adjudication and the workman cannot approach the Labour Court or Industrial Tribunal directly, except in those cases which are covered by Section 2A of the Act. Reference is made under Section 10 of the Act in those cases where the appropriate Government forms an opinion that 'any industrial dispute exists or is apprehended'. The words 'industrial dispute exists' are of paramount importance unless there is an existence of an industrial dispute (or the dispute is apprehended or it is apprehended such a dispute may arise in near future), no reference is to be made. Thus, existence or apprehension of an industrial dispute is a sine qua non for making the reference. No doubt, at the time of taking a decision whether a reference is to be made or not, the appropriate Government is not to go into the merits of the dispute. Making of reference is only an administrative function. At the same time, on the basis of material on record, satisfaction of the existence of the industrial dispute or the

apprehension of an industrial dispute is necessary. Such existence/apprehension of industrial dispute, thus, becomes a condition precedent, though it will be only subjective satisfaction based on material on record. Since, we are not concerned with the satisfaction dealing with cases where there is apprehended industrial dispute, discussion that follows would confine to existence of an industrial dispute. Dispute or difference arises when one party make a demand and other party rejects the same. It is held by this Court in number of cases that before raising the industrial dispute making of demand is a necessary pre-condition. In such a scenario, if the services of a workman are terminated and he does not make the demand and/or raise the issue alleging wrongful termination immediately thereafter or within reasonable time and raises the same after considerable lapse of period, whether it can be said that industrial dispute still exist. Since there is no period of limitation, it gives right to the workman to raise the dispute even belatedly. However, if the dispute is raised after a long period, it has to be seen as to whether such a dispute still exists? Thus, notwithstanding the fact that law of limitation does not apply, it is to be shown by the workman that there is a dispute in praesenti. For this purpose, he has to demonstrate that even if considerable period has lapsed and there are laches and delays, such delay has not resulted into making the industrial dispute seized to exist. Therefore, if the workman is able to give satisfactory explanation for these laches and delays and demonstrate that the circumstances discloses that issue is still alive, delay would not come in his way because of the reason that law of limitation has no application. On the other hand, if because of such delay dispute no longer remains alive and is to be treated as "dead", then it would be non-existent dispute which cannot be referred. Take, for example, a case where the workman issues notice after his termination, questioning the termination and demanding reinstatement. He is able to show that there were discussions from time to time and the parties were trying to sort out the matter amicably. Or he is able to show that there were assurances by the Management to the effect that he would be taken back in service and because of these reasons, he did not immediately raise the dispute by approaching the labour authorities seeking reference or did not invoke the remedy under Section 2A of the Act. In such a scenario, it can be treated that the dispute was live and existing as the workman never abandoned his right. However, in this very example, even if the notice of demand was sent but it did not evoke any positive response or there was specific rejection by the Management of his demand contained in the notice and thereafter he sleeps over the matter for number of years, it can be treated that he accepted the factum of his termination and rejection thereof by the Management and acquiesced into the said rejection. Take another example. A workman approaches the Civil Court by filing a suit against his termination which was pending for number of years and was ultimately dismissed on the ground that Civil Court did not have jurisdiction to enforce the contract of personal service and does not grant any reinstatement. At that stage, when the suit is dismissed or he withdraws that suit and then involves the machinery under the Act, it can lead to the conclusion that dispute is still alive as the workman had not accepted the termination but was agitating the same; albeit in a wrong forum. In contrast, in those cases where there was no agitation by the workman against his termination and the dispute is raised belatedly and the delay or laches remain unexplained, it would be presumed that he had waived his right or acquiesced into the act of termination and, therefore, at the time when the dispute is raised it had become stale and was not an 'existing dispute'. In such circumstances, the appropriate Government can refuse to make reference. In the alternative, the Labour Court/Industrial Court can also hold that there is no "industrial dispute" within the meaning of Section 2(k) of the Act and, therefore, no relief can be granted.

[41] We may hasten to clarify that in those cases where the Court finds that dispute still existed, though raised belatedly, it is always permissible for the Court to take the aspect of delay into consideration and mould the relief. In such cases, it is still open for the Court to either grant reinstatement without back wages or lesser back wages or grant compensation instead of reinstatement. We are of the opinion that the law on this issue has to be applied in the aforesaid perspective in such matters.

[42] To summarise, although there is no limitation prescribed under the Act for making a reference under Section 10(1) of the Act, yet it is for the 'appropriate Government' to consider whether it is expedient or not to make the reference. The words 'at any time' used in Section 10(1) do not admit of any limitation in making an order of reference and laws of limitation are not applicable to proceedings under the Act. However, the policy of industrial adjudication is that very stale claims should not be generally encouraged or allowed inasmuch as unless there is satisfactory explanation for delay as, apart from the obvious risk to industrial peace from the entertainment of claims after long lapse of time, it is necessary also to take into account the unsettling effect which it is likely to have on the employers' financial arrangement and to avoid dislocation of an industry.

35. In the case in hand, as has been observed above, the petitioner has failed to prove that his services were illegally terminated by the respondent and the respondent has violated the principle of 'last come first go' and also retained any junior to the petitioner in service and fresh hands were engaged by the respondent and as such the petitioner is not entitled to any relief.

36. But even if this fact is ignored, the petitioner has raised the industrial dispute after period of more than six years and delay has not been explained at all and the claim of the petitioner had become stale and thus suffers from vice of delay and laches, therefore, in view of the law laid down by the Hon'ble Supreme Court in **Prabhakar's** case supra, the petitioner is not entitled to any relief on this count as well. Hence all these issues are decided against the petitioner and are answered as such.

Issue No. 4

37. In view of my findings returned on issues No. 1 to 3 above, the petition is not maintainable. Hence this issue is decided in favour of the respondent and is answered in affirmative.

Relief

38. In view of my findings returned on the above issues, the present claim petition fails and is accordingly dismissed. However, under the facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

39. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 9th day of November, 2023.

Sd/-

(NARESH KUMAR),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, (H.P.) (Camp at Chamba).

IN THE COURT OF SH. NARESH KUMAR, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Ref. No. : **211/2015**
Date of Institution : **25.05.2015**
Date of Decision : **30.11.2023**

Shri Hukam Chand (since deceased) through his LRs:—

1. Shri Rajinder Kumar s/o Late Shri Hukam Chand, r/o Village Tundru, P.O. Killar, District Chamba, H.P.
2. Smt. Fulyatru mother of Hukam Chand, r/o Village Tundru Pargna Killar, Tehsil Pangi, District Chamba, H.P.
3. Smt. Jai Dei w/o Late Shri Hukam Chand, r/o Village Tundru, P.O. Killar, District Chamba, H.P.
4. Smt. Reeta Kumari d/o Late Shri Hukam Chand, r/o Village Tundru, P.O. Killar, District Chamba, H.P.Petitioners.

Versus

Executive Engineer, Killar Division, I&PH/ H.P.P.W.D., Killar, Tehsil Pangi, District Chamba, H.P.Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. Gaurav Sharma, Ld. Adv.
 For the respondent : Sh. Jitender Kumar, Ld. ADA

AWARD

The appropriate Government has made the following reference under Section 10(1) of the Industrial Disputes Act, 1947, for short (hereinafter referred to as ‘the I.D.Act’) to this court for adjudication:—

“Whether the industrial dispute raised by the worker Shri Hukam Chand s/o Shri Nakku Ram, r/o Village Thandal, Post Office Purthi, Tehsil Pangi, District Chamba, H.P. before the Executive Engineer, Killar Division I. & P.H./H.P.P.W.D. Killar, Tehsil Pangi, District Chamba, H.P. vide demand notice dated 31.10.2011 regarding his alleged illegal termination of service during September, 2001 suffers from delay and latches? If not, whether termination of the services of Shri Hukam Chand s/o Shri Nakku Ram, r/o Village Thandal, Post Office Purthi, Tehsil Pangi, District Chamba, H.P. by the Executive Engineer, Killar Division, I & P.H./H.P.P.W.D. Killar, Tehsil Pangi, District Chamba, H.P. during September, 2001 without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above aggrieved workman is entitled to from the above employer?”

2. After receipt of aforesaid reference, a corrigendum dated 17th May 2016 has been received from the appropriate Government which reads as under:—

“In partial modification of this Department’s Notification of even number dated 15-05-2015, the name and address of workman may be read as “Shri Hukam Chand s/o

Shri Bajir Chand, r/o Village Tundru, P.O. Killar, District Chamba, H.P.” instead of “Shri Hukam Chand s/o Shri Nakku Ram, r/o Village Thandal, P.O. Purthi, District Chamba, H.P.” which was inadvertently recorded in the said notification”.

3. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

4. Briefly stated, the case of the petitioner is that he was engaged as beldar in Irrigation and Public Health Department Pangi in the year 1994 and worked in the department till the year 2004. Pangi is a tribal and snow bound area and no effective work is done in snow bound area from November to May, but despite that he worked for maximum days during the period of ten years when work was available and provided to him and as such he should have been retained in service as per the policy of the Govt. His services were terminated by the respondent in the year 2004 without serving any notice upon him and thus his services were terminated in violation of provisions of Section 25-F of the I.D. Act. The respondent has also retained the person junior to him in service while terminating his services and thereby violated the principle of ‘last come first go’. His seniority has also been ignored by the respondent. The workers, who were terminated with him, have been regularized by the respondent on the intervention of the court and they are in service but, he despite rendering services for ten years with sincerity, honesty and devotion, is suffering for no fault on his part. He approached the respondent to re-engage him but to no avail. Hence the petition.

5. The petition has been resisted by the respondent by filing reply taking preliminary objections qua maintainability and petition being bad on account of delay and laches. On merits, it has been admitted that the petitioner was engaged as daily wage beldar, however, it has been averred that the petitioner was engaged in April 1996 and he intermittently worked with the department till 2001 and left the job at his own sweet will. No fictional breaks were given in the services of the petitioner. Petitioner has not completed 160 days in any calendar year continuously for eight years and therefore he is not entitled for regularization. The workmen, who had fulfilled the norms fixed for regularization by the State Government, have been regularized. It has been denied that seniority of the petitioner has been ignored. The petitioner himself has left the work in the year 2001 and question of serving notice upon the petitioner or payment of one month wages in lieu of notice period does not arise. The petitioner has raised the dispute after ten years and as such he is not entitled to any relief. The other workers were re-engaged as per awards passed by this court. After denying other allegations, it has been prayed that the petition be dismissed.

6. In rejoinder filed by the petitioner, the averments made in the petition have been reaffirmed after refuting those of the replies contrary to the averments made in the claim petition.

7. On the pleadings of the parties, following issues were framed on 5-10-2018:—

1. Whether the Industrial dispute raised by petitioner vide demand notice dated 31-10-2011 qua his termination of service during September, 2001 by respondent suffers from the vice of delay and laches as alleged? ..OPP
2. Whether termination of services of petitioner by the respondent during September, 2001 is/was illegal and justified as alleged? ..OPP
3. If issues No.1 & issue No.2 or both are proved in affirmative to what service benefits the petitioner is entitled to? ..OPP
4. Whether the claim petition is not maintainable in the present form? ..OPR

Relief.

8. The petitioner was called upon to lead evidence. The petitioner appeared as PW1.

9. It is pertinent to mention here that the petitioner Hukam Chand died during pendency of the petition and his LRs were substituted on record vide order dated 20-7-2022.

10. Thereafter one of the LRs namely Rajinder Kumar appeared as PW2 and closed the evidence.

11. On the other hand the respondent has examined Assistant Engineer, I&PH Shri Ranjeet Singh as RW1 and closed the evidence.

12. I have heard the Learned Counsel for the parties and gone through the case file carefully.

13. For the reasons to be recorded hereinafter, my findings on the above issues are as under:—

Issue No.1	:	Yes
Issue No.2	:	No
Issue No.3	:	No
Issue No.4	:	Yes
Relief	:	Petition is dismissed per operative part of the Award.

REASONS FOR FINDINGS

Issues No. 1 to 3

14. All these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

15. At the outset, it is pertinent to mention here that the affidavit of the petitioner Hukam Chand and LRs certificate inadvertently been exhibited with same exhibit mark Ext. PW1/A and therefore in order to avoid confusion and for better appreciation of evidence, legal heirs certificate is here-in-after referred to as PW1/A-1. It is also pertinent to mention here that Rajinder Kumar PW2 has stated that mandays chart of his father is Ext. PW1/B, however, mandays chart has been exhibited in the evidence of Assistant Engineer Ranjeet Singh as RW1/A and no mandays chart was filed by the petitioner as admitted by the learned counsel for the petitioner during the course of arguments and as such the same is referred to as Ext. RW1/A.

16. It has not been disputed by the respondent that the petitioner was engaged as beldar by the respondent department.

17. The petitioner (since deceased) has claimed that he was engaged as beldar on daily wage basis by the respondent in the year 1994 and he intermittently worked with the respondent till 2004 and that he worked for maximum days during the period of ten years when work was available and provided to him and as such he should have been retained in service as per the policy of the Govt. and the respondent has terminated his services without serving any notice upon him and the respondent has also retained the person junior to him in service while terminating his services and thereby violated the principle of 'last come first go'.

18. On the other hand respondent has claimed that the petitioner was engaged as beldar in the year 1996 and he intermittently worked with the department till the year 2004 and he himself has left the job at his own sweet will and no fictional breaks were given in the services of the petitioner and he has not completed 160 days in any calendar year.

19. As per mandays chart Ext. RW1/A produced on record by the respondent that the petitioner has worked with the respondent from June 1996 to September 2001. The petitioner has worked for 106 days in the year 1996, 118 days in 1997, 118 days in 1998, 109 days in 1999, 99 days in 2000 and 116 days in 2001.

20. It is evident from the perusal of the mandays chart Ext. RW1/A that the petitioner had not worked for 160 days during 12 calendar months preceding the date of termination of his services. The petitioner has worked for 116 days in the year 2001 till September, 2001 and he has not worked even for a single day from October to December in the year 2000 and thus he has worked for 116 days only during period of 12 months preceding the date of alleged termination of his services *w.e.f.* September, 2001.

21. The petitioner appeared as PW1 and has filed affidavit Ext. PW1/A in examination-in-chief in which he has affirmed the averments made in the petition. In his cross-examination he has admitted that he was engaged as daily wager by the department from the year 1996 to 2001. He has denied that he intermittently worked with the department during this period and he himself had left the work. He has also denied that no fictional breaks were given by the department in his services and he has not completed the criteria of 160 days. He has also denied that his services were never terminated by the department and he never reported to the department. He did not know that junior to him were retained by the department in service. He has denied that the department has regularized the services of those workers who have regularly worked with the department.

22. After the death of the petitioner, his son Rajinder Kumar appeared as PW2. He has stated that his father was engaged in the year 1994 and he was thrown out of job in the year 2004 without following the procedure. Fresh hands were also engaged and junior were retained. Had his father been in service, he would have been regularized. He was intentionally given fictional breaks by the department. In his cross-examination he has denied that his father never completed 160 days in any calendar year. He has also denied that the services of his father was not terminated by the respondent and no junior to his father was retained by the department. He has also denied that no fictional breaks were given in the services of his father.

23. On the other hand, the respondent has examined Assistant Engineer, Ranjeet Singh as RW1. He has stated that the petitioner had intermittently worked with the department from 1996 to 2001. He never worked for minimum 160 days in any calendar year and his services were not terminated by the department; rather he himself had left the job. The department neither retained junior to the petitioner nor engaged fresh hands. The workmen pleaded in petition by the petitioner were re-engaged as per the order of the Court. In his cross-examination, he has denied that petitioner has worked with the department from 1994 to 2004 and added that he had worked in between 1996 to 2001. He has admitted that muster roll has not filed on the record and added that the mandays chart was prepared on the basis of muster rolls. He has admitted that no separate notes have been appended to the mandays chart that it was prepared on the basis of muster roll. It has admitted that the work is generally executed for four months in Pangi being snow bound area. He has denied that the services of the petitioner were terminated by the department despite the fact that the work and funds were available and added that the petitioner himself had left the job. No notice was issued to the petitioner asking him to report for duty. No explanation was called for. No speaking order regarding abandonment of the services by the petitioner was passed by the department. He has also denied that fresh hands were engaged without giving opportunity to the

petitioner for re-employment. He has also denied that delay in approaching the court had occurred for the reason that the petitioner was given assurance by the department time and again to re-engage him. He has denied that the services of the petitioner were terminated intentionally so that he could not avail the benefit of regularization of services.

24. Thus it is evident from the resume of the evidence of both the parties discussed supra that the petitioner Hukam Chand (since deceased) PW1 as well as his son Rajinder Kumar as PW2, in their examination-in-chief, have stated that the petitioner worked with the respondent from 1996 to 2001, however, Hukam Chand PW1 in his cross-examination, categorically has stated that he was engaged by the department as daily wager from 1996 to 2001 and he thereby contradicted his own case and corroborated the plea of the respondent that he had worked with the respondent department from 1996 to 2001 as shown in the mandays chart Ext. RW1/A. Hence in view of the aforesaid admission of Hukam Chand PW1 coupled with evidence Shri Ranjeet Singh RW1 and mandays chart Ext. RW1/A, it can be safely concluded that the petitioner had worked with the respondent department from 1996 to September 2001.

25. Rajinder Kumar PW2 has stated that respondent had given fictional breaks in the services of the petitioner, however, it is not the case of the petitioner; rather petitioner has pleaded that Pangi is a tribal and snow bound area and no effective work is done in snow bound area from November to May but despite that he worked for maximum days when work was available and provided to him and therefore, the statement of Rajinder Kumar PW2 to this effect cannot be accepted.

26. This apart, there is nothing in the evidence of Ranjeet Singh RW1 from which it could be inferred that the respondent had given fictional breaks in the services of the petitioner so that he might not complete 160 days in any calendar year. Hence in the absence of any cogent evidence having been led by the petitioner, the evidence of Ranjeet Singh RW1 that the petitioner intermittently worked with the department from 1996 to 2001 and no fictional breaks were given in his services as well as the working days shown in the mandays chart Ext. RW1/A has to be accepted to be correct. Therefore in view of evidence of Ranjeet Singh RW1 and mandays chart Ext. RW1/A, it is established on record that the petitioner has worked with the respondent from June 1996 to September 2001 and no fictional breaks were given in his services.

27. It has not been disputed by the respondent that a workman serving in tribal area of Pangi shall be deemed to be in continuous service within the meaning of Section 25-B of the I.D. Act if he has actually worked for 160 days instead of 240 days in a calendar year during the period of 12 calendar months preceding the date of retrenchment with reference to which the calculation is to be made. Since the petitioner, as per mandays chart Ext. PW1/B had not worked for 160 days with the respondent during the period of 12 calendar months preceding the date when his services were allegedly terminated and the LRs of the deceased petitioner have failed to prove that fictional breaks were given in service of the petitioner by the respondent, therefore, the petitioner can not be held to be in continuous service as per the provisions of Section 25-B of the I.D. Act.

28. The respondent has come up with the plea that the petitioner himself has left the work, however, it is fairly settled that the plea of abandonment of work is to be proved by the employer. Hon'ble High Court in **CWP No. 3634 of 2009** titled as **Narain Singh vs. The State of Himachal Pradesh & Ors.** decided on 21.6.2016, has held that voluntarily abandonment of work by a workman is required to be established by way of cogent and reliable evidence by the employer. Hon'ble High Court in **State of H.P. and Anr. vs. Partap Singh, 2016(6)ILR (HP) 1314** has held that it is settled that abandonment is not to be lightly presumed, but it has to be unequivocally proved by the employer and even if, it is presumed that the workman had abandoned the job

himself and the same is a gross misconduct, in that case some disciplinary inquiry should have been initiated against the workman and the employer has to prove the same by leading evidence.

29. In the case in hand, the respondent has not led any cogent evidence on record to prove the abandonment of work by the petitioner and therefore plea of the respondent that the petitioner himself has left the work cannot be accepted. Consequently, it can safely be held that the respondent terminated the services of the petitioner in September, 2001. However, as has been observed above, the petitioner has not worked for 160 days with the respondent during the period of 12 calendar months preceding the date when his services were terminated and he was not in continuous service as per the provisions of Section 25-B of the I.D. Act, therefore, the violation of Section 25-F I.D. Act is not proved. Hence, it can safely be held that the petitioner failed to prove that the respondent terminated his services in violation of Section 25-F I.D. Act.

30. The petitioner has also alleged the violation of Section 25-G I.D. Act and Section 25-H I.D. Act. Hukam Chand PW1 as well as his son Rajinder Kumar PW2 have stated that junior to the petitioner were retained in service while terminating the services of the petitioner, however, the petitioner or his LRs has/have not produced any evidence on record to prove the same. The petitioner, in his statement of claim, has pleaded that the respondent has retained junior to him in service while terminating his services and thereby violated the principle of 'last come first go', however, the petitioner has neither pleaded nor in his substantive has stated as to which of his juniors were retained in services by the respondent nor any document has been produced on record nor even any such record was got summoned from the respondent department, in the absence of which it cannot be concluded that the respondent has retained juniors to the petitioner in service while terminating his services and thereby violated the principle of 'last come first go'. Hence the petitioner has also failed to prove the violation of the provisions of Section 25-G of the I.D. Act.

31. The petitioner has alleged that his seniority was also ignored by the respondent which is violation of Section 25-H of the I.D. Act, however, petitioner has not led any evidence on record to prove the same. The petitioner has neither pleaded nor led evidence on record to prove that the respondent has engaged any fresh hands after termination of his services without giving an opportunity to him for re-employment and therefore the violation of Section 25-H of the I.D. Act is also not proved on record.

32. Thus in view of my above discussions, it can safely be held that the petitioner has failed to prove that the respondent has terminated his services in violation of Sections 25-F, 25-G and 25-H of the I.D. Act.

33. Now coming to the question whether the industrial dispute raised by the petitioner vide demand notice dated 31-10-2011 qua termination of his services during September 2001 by the respondent suffers from the vice of delay and laches.

34. The petitioner, as per mandays chart Ext. RW1/A, had worked with the respondent department till September 2001 and he had admittedly issued demand notice on 30.10.2011 after more than 10 years and no explanation with regard to the delay has been given by the petitioner.

35. Hon'ble Supreme Court in **Prabhakar Vs. Joint Director Sericulture Department and others 2015 (15) SCC 1** in paras No.41 and 42 has held as under:—

[40] On the basis of aforesaid discussion, we summarise the legal position as under:

An industrial dispute has to be referred by the appropriate Government for adjudication and the workman cannot approach the Labour Court or Industrial

Tribunal directly, except in those cases which are covered by Section 2A of the Act. Reference is made under Section 10 of the Act in those cases where the appropriate Government forms an opinion that 'any industrial dispute exists or is apprehended'. The words 'industrial dispute exists' are of paramount importance unless there is an existence of an industrial dispute (or the dispute is apprehended or it is apprehended such a dispute may arise in near future), no reference is to be made. Thus, existence or apprehension of an industrial dispute is a sine qua non for making the reference. No doubt, at the time of taking a decision whether a reference is to be made or not, the appropriate Government is not to go into the merits of the dispute. Making of reference is only an administrative function. At the same time, on the basis of material on record, satisfaction of the existence of the industrial dispute or the apprehension of an industrial dispute is necessary. Such existence/apprehension of industrial dispute, thus, becomes a condition precedent, though it will be only subjective satisfaction based on material on record. Since, we are not concerned with the satisfaction dealing with cases where there is apprehended industrial dispute, discussion that follows would confine to existence of an industrial dispute. Dispute or difference arises when one party make a demand and other party rejects the same. It is held by this Court in number of cases that before raising the industrial dispute making of demand is a necessary pre-condition. In such a scenario, if the services of a workman are terminated and he does not make the demand and/or raise the issue alleging wrongful termination immediately thereafter or within reasonable time and raises the same after considerable lapse of period, whether it can be said that industrial dispute still exist. Since there is no period of limitation, it gives right to the workman to raise the dispute even belatedly. However, if the dispute is raised after a long period, it has to be seen as to whether such a dispute still exists? Thus, notwithstanding the fact that law of limitation does not apply, it is to be shown by the workman that there is a dispute in praesenti. For this purpose, he has to demonstrate that even if considerable period has lapsed and there are laches and delays, such delay has not resulted into making the industrial dispute seized to exist. Therefore, if the workman is able to give satisfactory explanation for these laches and delays and demonstrate that the circumstances discloses that issue is still alive, delay would not come in his way because of the reason that law of limitation has no application. On the other hand, if because of such delay dispute no longer remains alive and is to be treated as "dead", then it would be non-existent dispute which cannot be referred. Take, for example, a case where the workman issues notice after his termination, questioning the termination and demanding reinstatement. He is able to show that there were discussions from time to time and the parties were trying to sort out the matter amicably. Or he is able to show that there were assurances by the Management to the effect that he would be taken back in service and because of these reasons, he did not immediately raise the dispute by approaching the labour authorities seeking reference or did not invoke the remedy under Section 2A of the Act. In such a scenario, it can be treated that the dispute was live and existing as the workman never abandoned his right. However, in this very example, even if the notice of demand was sent but it did not evoke any positive response or there was specific rejection by the Management of his demand contained in the notice and thereafter he sleeps over the matter for number of years, it can be treated that he accepted the factum of his termination and rejection thereof by the Management and acquiesced into the said rejection. Take another example. A workman approaches the Civil Court by filing a suit against his termination which was pending for number of years and was ultimately dismissed on the ground that Civil Court did not have jurisdiction to enforce the contract of personal service and does not grant any reinstatement. At that stage, when the suit is dismissed or he

withdraws that suit and then involves the machinery under the Act, it can lead to the conclusion that dispute is still alive as the workman had not accepted the termination but was agitating the same; albeit in a wrong forum. In contrast, in those cases where there was no agitation by the workman against his termination and the dispute is raised belatedly and the delay or laches remain unexplained, it would be presumed that he had waived his right or acquiesced into the act of termination and, therefore, at the time when the dispute is raised it had become stale and was not an 'existing dispute'. In such circumstances, the appropriate Government can refuse to make reference. In the alternative, the Labour Court/Industrial Court can also hold that there is no "industrial dispute" within the meaning of Section 2(k) of the Act and, therefore, no relief can be granted.

[41] We may hasten to clarify that in those cases where the Court finds that dispute still existed, though raised belatedly, it is always permissible for the Court to take the aspect of delay into consideration and mould the relief. In such cases, it is still open for the Court to either grant reinstatement without back wages or lesser back wages or grant compensation instead of reinstatement. We are of the opinion that the law on this issue has to be applied in the aforesaid perspective in such matters.

[42] To summarise, although there is no limitation prescribed under the Act for making a reference under Section 10(1) of the Act, yet it is for the 'appropriate Government' to consider whether it is expedient or not to make the reference. The words 'at any time' used in Section 10(1) do not admit of any limitation in making an order of reference and laws of limitation are not applicable to proceedings under the Act. However, the policy of industrial adjudication is that very stale claims should not be generally encouraged or allowed inasmuch as unless there is satisfactory explanation for delay as, apart from the obvious risk to industrial peace from the entertainment of claims after long lapse of time, it is necessary also to take into account the unsettling effect which it is likely to have on the employers' financial arrangement and to avoid dislocation of an industry.

36. In the case in hand, as has been observed above, the petitioner has failed to prove that his services were illegally terminated by the respondent and the respondent has violated the principle of 'last come first go' and also retained any junior to the petitioner in service and fresh hands were engaged by the respondent and as such the petitioner is not entitled to any relief.

37. But even if this fact is ignored, the petitioner has raised the industrial dispute after period of more than 10 years and delay has not been explained at all and the claim of the petitioner had become stale and thus suffers from vice of delay and laches, therefore, in view of the law laid down by the Hon'ble Supreme Court in **Prabhakar's** case supra, the petitioner is not entitled to any relief on this count as well. Hence all these issues are decided against the petitioner and are answered as such.

Issue No. 4

38. In view of my findings returned on issues No. 1 to 3, the petition is not maintainable. Hence this issue is decided in favour of the respondent and is answered in affirmative.

Relief

39. In view of my findings returned on the above issues, the present claim petition fails and is accordingly dismissed. However, under the facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

40. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of November, 2023.

Sd/-

(NARESH KUMAR),
Presiding Judge Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P. (Camp at Chamba).

IN THE COURT OF SH. NARESH KUMAR, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No.	:	48/2019
Date of Institution	:	23-05-2019
Date of Decision	:	30-11-2023

Shri Neel Chand s/o Shri Tika Ram, r/o Village Shour, P.O. Purthi, Tehsil Pangi, District Chamba, H.P.Petitioner.

Versus

The Superintending Engineer, Operation Circle, HPSEBL, Dhalhousie, District Chamba, H.P.Respondent.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner	:	Sh. O. P. Bhardwaj, Ld. Adv.
For the respondent	:	Sh. Neeraj Kumar, Ld. Adv.

AWARD

The appropriate Government has made the following reference under Section 10(1) of the Industrial Disputes Act, 1947, for short (hereinafter referred to as 'the I.D. Act') to this court for adjudication:—

“Whether the termination of services of Shri Neel Chand s/o Shri Tika Ram, r/o Village Shour, P.O. Purthi, Tehsil Pangi, District Chamba, H.P. by the Superintending Engineer, Operation Circle, HPSEBL, Dalhousie, District Chamba, H.P. through his service provider/contractor w.e.f. 01-04-2016 without serving notice, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and amount of compensation, the above aggrieved worker is entitled to from the above employer?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was initially engaged on muster as daily wage T-Mate without any appointment letter on 1-12-2013 in HPSEB Limited, Electrical Division Pangi Valley Sach. He sometime also worked as electrician as per direction of the Assistant Engineer of the respondent department. He intermittently worked with the respondent till 31-3-2016. The respondent has given fictional breaks in his services from time to time so that he might not complete 160 days in each calendar year for the purpose of regularization of his services whereas workmen engaged with him and also junior to him were retained continuously on muster roll/bill basis by the respondent department and sometime through contractor. Even no casual card/attendance card was issued to him. The State of H.P. has framed the policy of regularization of daily wage workers which requires a workmen to work for 160 days in each calendar year in tribal area. The respondent, however, has not disclosed his actual number of days before Conciliation Officer. His services were terminated without giving any notice to him and without payment of retrenchment compensation and as such breaks given in his services be counted for calculating 160 days for the purpose of continuous service as per Section 25-B of the I.D.Act. He had issued demand notice in the year 2016 but the respondent had not re-engaged him. After termination of his services, the respondent has engaged Surrender, Yogender, Devi Saran, Karam Singh, Chaman and Dinesh from time to time and the persons junior to him were retained in service continuously without any break and they have been regularized and thus the respondent has violated the principle of 'last come first go'. The workmen whose services were illegally terminated with him have been re-engaged by the department. The respondent has not given an opportunity to him for re-employment and has given preference to persons junior to him. He never remained absent from his duty since 2013 till illegal termination of his services. Had he not been illegally terminated, he would have completed eight years of continuous service on 31-12-2020 and would have been entitled for work charge status/ regularization of services *w.e.f.* 1-1-2021 as T-Mate. He was never charge-sheeted for any misconduct, indiscipline, negligence and he worked with devotion and his services were illegally terminated. Hence the petition.

4. The petition has resisted by the respondent by filing reply taking preliminary objections qua maintainability, locus standi, estoppels and suppression of true and material facts. On merits, it has been averred that the petitioner was never engaged as T-Mate by the department on daily wages or bill basis. As a matter of fact, the petitioner was employee of the contractor to whom the department had given the contract and therefore question of termination of his services does not arise at all. It has been admitted that the State of H.P. framed policy of regularization of daily wage workers, however, it has been averred that the petitioner was neither engaged nor he ever worked with the respondent department, the question of his engagement and disengagement by the respondent did not arise at all. No person, who rendered services with the petitioner, has been re-engaged nor the principle of 'last come first go' has been violated. After denying other allegations, it has been prayed that the petition be dismissed.

5. In rejoinder filed by the petitioner, the averments made in the petition have been reaffirmed after refuting those of the replies contrary to the averments made in the claim petition.

6. On the pleadings of the parties, following issues were framed on 26-11-2021:—

1. Whether termination of services of the petitioner by the respondent *w.e.f.* 01-04-2016 was/is illegal and unjustified, as alleged? .. *OPP*
2. If issue no.1 is proved in affirmative to what amount of back wages, seniority, past service benefits and compensation the petitioner is entitled to from the respondent/employer? .. *OPP*
3. Whether the claim petition is not maintainable in the present form? .. *OPR*

4. Whether the petitioner has not locus standi and cause of action to file the present claim petition? ..OPR
5. Whether the petitioner is estopped by his act and conduct to file the present claim petition? ..OPR
6. Whether the petitioner has suppressed the material facts from the Court and not approached the Court with clean hands, as alleged. If so, its effect? ..OPR
7. Relief.

7. The petitioner was called upon to lead evidence. The petitioner beside himself has examined Raj Kumar as PW2 and closed the evidence.

8. On the other hand the respondents have examined Engineer Santosh Kumar as RW1 and closed the evidence.

9. I have heard the Learned Counsel for the parties and gone through the case file carefully.

10. For the reasons to be recorded hereinafter, the findings on the above issues are as under:—

Issue No.1	:	No
Issue No.2	:	No
Issue No.3	:	Yes
Issue No.4	:	Yes
Issue No.5	:	No
Issue No.6	:	Yes
Relief.	:	Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No. 1, 2 and 6

11. All these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

12. The petitioner has claimed that he was engaged as T-Mate without any appointment letter by the respondent on muster roll on 1-12-2013 and he intermittently worked with the respondent department till 31-3-2016. The respondent has given fictional breaks in his services so that he might not complete 160 days in each calendar year and illegally terminated his services on 31-3-2016 without issuing any notice to him or paying retrenchment compensation to him. So much so the workmen junior to him were retained in service by the respondent while terminating his services and thereby violated the rule of 'last come first go' and the respondent has also engaged new workmen after termination of his services.

13. On the other hand, the respondent has claimed that the petitioner was never engaged as T-Mate on daily wage basis or bill basis rather the department has violated the awarded the work to contractor and the petitioner was the employee of the contractor and as such the question of

termination of his services does not arise at all. Thus the respondent has denied the relationship of employer and employee between the parties.

14. The petitioner Neel Chand appeared as PW1 and filed affidavit Ext. PW1/A in his examination-in-chief wherein he has affirmed all the averments made in the petition. In his cross-examination he has stated that he has passed 10th standard. He was engaged as T-Mate by the department for doing the work of electrician. He was engaged by Shri Hari Singh, Junior Engineer. He has denied that the respondent has awarded the work to contractor at the relevant time and added that there was shortage of the staff in the department and therefore he was engaged. He has further stated that he does not know as to whether he was engaged by the department or contractor and then added that he was engaged by the department. Hari Nath and Ravinder used to work with him. He does not know that the persons named by him in his affidavit were properly appointed by the department.

15. The petitioner has also examined Shri Raj Kumar as PW2. He has stated that he was engaged as T-Mate in HPSEB Ltd., Electrical Sub Division, Pangi, Tehsil Pangi, District Chamba in the year 1980 and retired as special Foreman from the department in January 2020. The petitioner was initially engaged as per directions of the Assistant Engineer of the department on 1-12-2013 and he continuously worked with the department as T-Mate and also as electrician till 31-3-2016. He worked under his control to the satisfaction of the department. He was engaged on muster roll on daily wage basis by the respondent and he approached the department time and again but the department did not pay heed to his request. In his cross-examination he has stated that the petitioner was engaged for installation of polls. JE and SDO used to assign work to the petitioner. There used be the labour of contractor during that period. The petitioner might be employee of the contractor and he did not know much.

16. On the other hand, the respondent has examined Er. Santosh Kumar as RW1, who has filed affidavit Ext. RW1/A in his examination-in-chief, wherein he has stated that the petitioner was never engaged by the respondent as T-Mate on daily wage basis or bill basis. The petitioner worked with an employee of the contractor to whom the department had given contract. The petitioner was never engaged by the respondent or worked for respondent, therefore, question of his engagement or disengagement did not arise. In his cross-examination he has denied that the petitioner was engaged by the department as T-Mate and electrician. He admitted that the petitioner had worked with the department and added that he was never engaged by them and he worked under the contractor to whom the contract was awarded by the department. He has admitted that no notice was issued to the petitioner and no compensation was paid to him and added that there was no need as he was not their employee. He admitted that workmen shown in para No.6 of the petition are working for the department and added that they were workers of the contractor and there is no direct relationship between the respondent and the workers. He has admitted that the work is always available with the department. He has admitted that no letter of awarding work to the contractor has placed on the record. Shri Thakur Lal, r/o Village Sach, Tehsil Pangi, District Chamba, H.P. was the contractor. He has admitted that such averment has not been made in the petition. He has admitted that daily roster of the workmen, who are working at Killar and Sach, is maintained. He did not know that the petitioner is unemployed.

17. The petitioner besides ocular evidence has also filed the photocopies of the complaint register Ext. PW1/B1 to Ext. PW1/B24 on record, however, the petitioner has not stated as to fromwhere he has brought the same nor the same bear the stamp of the respondent department nor the same are attested by any officer of the respondent department. Even Raj Kumar PW2, under whom the petitioner allegedly worked as T-Mate and electrician, has stated anything about the complaint register and entries made therein nor the same was put to the Er. Santosh Kumar RW1, therefore, in the absence of the proof of the fact that the complaint book was maintained by the

department and without proving the same in accordance with law, the same cannot be read in evidence in proof the fact that petitioner was engaged as T-Mate or electrician by the respondent as claimed by him.

18. Raj Kumar PW2, as has been observed above, in his examination-in-chief, has stated that petitioner was engaged as T-Mate as per directions of the Assistant Engineer, however, in his cross-examination he has dismantled the case of the petitioner by deposing that the petitioner might be employee of the contractor and he did know much. Thus, Raj Kumar PW2 has also not corroborating the plea of the petitioner that he was engaged as T-Mate/electrician by the department. Even otherwise Junior Engineer has no authority to engage any workman. But even this fact is ignored, even then the petitioner has not led cogent evidence on record to prove that he was engaged as T-Mate or electrician by the respondent and he worked as employee of the respondent department *w.e.f.* 1-12-2013 to 31-3-2016.

19. There is also nothing in the evidence of Er. Santosh Kumar RW1 from which it could be inferred that the petitioner was engaged by the respondent. He (PW1) has maintained the stand of the respondent that the petitioner worked with contractor to whom the department had given contract and in his cross-examination he stated that the contract was awarded to contractor Thakur Lal. It is true that the respondent has not pleaded the name of contractor in his reply, however, the respondent has come up with the specific plea that the petitioner was not engaged by the department; rather he was employee of contractor to whom the contract was awarded and therefore no adverse inference can be drawn against the respondent for not pleading the name of the contractor in his reply, moreso, when PW2, in his cross-examination has admitted that the labour of the contractor was deployed at the relevant time. Thus, the petitioner has not led cogent evidence on record to prove that he was engaged as T-Mate or electrician by the respondent and evidence of PW2 that the petitioner might be the employee of the contractor clearly goes to show that the petitioner was employee of the contractor which fact has been concealed by him from the court.

20. Even otherwise, it is fairly settled by now that the onus to prove the relationship of employer and employee is on the workman. **Workmen of Nilgiri Coop. Mktg. Soc. Ltd. vs. State of Tamil Nadu, (2004) 3 SCC 514**, has held that it is a well settled principle of law that the person, who set up a plea of existence of relationship of employer and employee, the burden would be upon him to prove the same.

21. Hon'ble High Court in **Rakesh Sharma vs. Indian Oil Corporation and Another, 2019 LLR 1109** has held that it is for the workman to prove that there is relationship of employer and employee between the parties.

22. In the case in hand, as has been observed, the petitioner has failed to prove that he was engaged as T-Mate or electrician by the respondent. He has also not produced and proved any muster roll or bills or any other document to prove that the respondent has paid salary/wages to him nor he got any such record summoned from the respondent department and therefore he has failed to establish the relationship of employer and employee between him and the respondent. Hence, it can safely be concluded that the petitioner has failed to prove that the respondent has engaged him as T-Mate on 1-12-2013 and the respondent has illegally terminated his services and as such he is not entitled to any relief as claimed by him. Consequently, issues No.1 and 2 are decided against the petitioner and Issue No.6 is decided in favour of the respondent and are answered as such.

Issue No. 3

23. In view of my findings returned on issues No. 1 and 2 above, the petition is not maintainable. Hence this Issue is decided in favour of the respondent and is answered in affirmative.

Issue No. 4

24. In view of my findings returned on issues No.1 and 2 above, the petitioner has the locus standi to file the present petition and the petitioner has failed to prove cause of action against the respondent. Hence this issue is decided in favour of the respondent and is answered in affirmative.

Issue No. 5

25. Neither any evidence has been led nor any arguments were addressed as to what act and conduct of the petitioner estopped him to file the petition. Hence this issue is decided against the respondent and is answered in negative.

Relief

26. In view of my findings returned on the above issues, the present claim petition fails and is accordingly dismissed. However, under the facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

27. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of November, 2023.

Sd/-

(NARESH KUMAR)
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, (H.P.).

IN THE COURT OF SH. NARESH KUMAR, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Ref. No. : **84/2019**
Date of Institution : **18-07-2019**
Date of Decision : **30-11-2023**

Shri Mustaq Ali s/o Shri Jaraf Deen, r/o Village Juwans, P.O. Bhandal, Tehsil Salooni,
District Chamba, H.P.Petitioner.

Versus

1. The Project Head, GMR Bajoli Holi Hydel Power Project, Holi, Tehsil Bharmour,
District Chamba, H.P.

2. The Project Head, Gammon India Pvt. Ltd., Bajoli Holi Hydel Power Project, Holi,
Tehsil Bharmour, District Chamba, H.P.Respondents .

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. O. P. Bhardwaj, Ld. Adv.
 For the respondent(s) : Sh. Vaneet K. Gupta, Ld. Adv.

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, for short (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

"Whether the termination of the services of Shri Mustaq Ali s/o Shri Jaraf Deen, r/o Village Juwans, P.O. Bhandal, Tehsil Salooni, District Chamba, H.P. by the (1) The Project Head, GMR Bajoli Holi Hydel Power Project, Holi, Tehsil Bharmour, District Chamba, H.P. (2) The Project Head, Gammon India Pvt. Ltd., Bajoli Holi Hydel Power Project, Holi, Tehsil Bharmour, District Chamba, H.P. w.e.f. 29-10-2015 without complying with the provisions of the Industrial Disputes Act, 1947, as alleged by the workman, is legal and justified? If not, what relief of back wages, seniority, past service benefits and amount of compensation the above aggrieved workman is entitled to?"

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was initially engaged in the establishment of the respondents on muster roll as daily wage Mechanical Helper without any appointment letter on 8-5-2013 and he continuously worked with the respondents till 29-10-2015. He initially was paid Rs.7500/- per month as salary by the company and he was receiving Rs.11189/- as salary at the time of oral termination of his services on 29-10-2015. After termination of his services, he approached the respondent time and again and requested to re-engage him but respondent did not pay heed to his requests. His services were terminated without issuing one month's notice in writing indicating reasons for his retrenchment and without payment of retrenchment compensation to him. The respondents have retained the persons junior to him in service at the time of illegal termination of his services and they have been regularized and the respondents thus have violated the principle of 'last come first go'. The respondents have also re-engaged number of new workmen after illegal termination of his services. The persons whose services were illegally terminated by the respondents have been re-engaged and he was not given opportunity of re-employment. The workers namely Abdul, Sadik Mohd. and Rafi, who were junior to him, have been retained continuously by the respondents and they are still working with the respondents. Had his services not been terminated illegally, he would have completed eight year continuous service on 31-12-2015 and he would have become entitled to work charge status/ regularization of services w.e.f. 1-1-2016. He was never charge-sheeted for any act of indiscipline, negligence or misconduct and thus the verbal order of termination of his service is illegal and highly unjustified and is also against the principle of natural justice. He is unemployed since illegal termination of his service on 29-10-2015. Hence the petition.

4. The petition has resisted by the respondent No.1 by filing reply taking preliminary objections qua maintainability, locus standi, cause of action, estoppel and suppression of true and material facts from the court. On merits, it has been denied that the petitioner was initially engaged by them as Mechanical Helper in their establishment on 8-5-2013. It has been averred that the respondent No.1 has allotted the work of project to the respondent No. 2 and the respondent No. 2 has further allotted the work to private contractors. The petitioner worked at their dam site with contractor Dhan Bahadur Sahi from 1-5-2014 to 31-8-2015 and when Dhan Bahadur Sahi left the job, the work was given to the another contractor Sarvan Kumar and the petitioner worked with

him from 1-9-2015 to 24-10-2015 and he had received salary of the said period. Thereafter the petitioner never reported to work nor approached for rejoining. The petitioner left the job at his own accord and his services were not terminated by them. He cannot be kept on the job due to his long unauthorized absence. It has admitted that the petitioner received Rs.11189/- in the month of October, 2015, however, it has been denied that the services of the petitioner were verbally terminated on 29-10-2015 without serving one month's notice upon him and the petitioner requested time and again to re-engage him. After denying other allegations, it has been prayed that the petition be dismissed.

5. The petition has also been resisted by the respondent No. 2 by filing reply taking preliminary objections qua maintainability, locus standi, cause of action, estoppel and suppression of true and material facts from the court. On merits, it has been averred that the petitioner worked at their dam site with contractor Dhan Bahadur Sahi from 1-5-2014 to 31-8-2015 and when Dhan Bahadur Sahi left the job, the work was given to the another contractor Sarvan Kumar and the petitioner worked with him from 1-9-2015 to 24-10-2015 and he had received salary of the said period. Thereafter the petitioner never reported to work nor approached for rejoining. The petitioner left the job at his own accord and his services were not terminated by them. He cannot be kept on the job due to his long unauthorized absence. It has admitted that the petitioner received Rs.11189/- in the month of October, 2015, however, it has been denied that the services of the petitioner were verbally terminated on 29-10-2015 without serving one month's notice upon him and the petitioner requested time and again to re-engage him. After denying other allegations, it has been prayed that the petition be dismissed.

6. In rejoinder filed by the petitioner, the averments made in the petition have been reaffirmed after refuting those of the replies contrary to the averments made in the claim petition.

7. On the pleadings of the parties, following issues were framed on 26-5-2022:—

1. Whether the termination of services of the petitioner *w.e.f.* 29-10-2015 by the respondents is violation of the provisions contained under Section 25-F of the Act, as alleged? ..OPP
2. Whether the respondents has violated the provisions contained under section 25G and 25-H of the Act, as alleged? ..OPP
3. If issues No.1 &2 are proved in affirmative, to what relief, the petitioner is entitled to? ..OPP
4. Whether the claim petition is not maintainable, as alleged? ..OPR
5. Whether the petitioner has not locus standi and cause of action to the claim petition, as alleged? ..OPR
6. Whether the petitioner has not approached the Court with clean hand and suppressed the material facts, as alleged? ..OPR
7. Whether the petitioner is estopped by his act and conduct from filing the present claim, as alleged? ..OPR
8. Relief.

8. The petitioner was called upon to lead evidence. The petitioner appeared as PW1 and closed the evidence.

9. On the other hand the respondents have examined Manager HR Shri Roshan Maindan of M/s Gammon Engineers & Contractor Pvt., Holi as RW1 and closed the evidence.

10. I have heard the Learned Counsel for the parties and gone through the case file carefully.

11. For the reasons to be recorded hereinafter, my findings on the above issues are as under:—

Issue No.1	:	No
Issue No.2	:	No
Issue No.3	:	No
Issue No.4	:	Yes
Issue No.5	:	Yes
Issue No.6	:	Yes
Issue No.7	:	No
Relief.	:	Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No. 1 to 3 and 6

12. All these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

13. The petitioner has claimed that he was initially engaged in the establishment of the respondents on muster roll as daily wage Mechanical Helper without any appointment letter on 8-5-2013 and he continuously worked with the respondents till 29-10-2015. He initially was paid Rs.7500/- per month as salary by the company and he was receiving Rs.11189/- as salary at the time of oral termination of his services on 29-10-2015. His services were verbally terminated without issuing one month's notice in writing indicating reasons for his retrenchment and without payment of retrenchment compensation to him and even the workmen junior to him were retained while terminating his services in violation of the principle of 'last come first go'. Even fresh hands were engaged after terminating of his services and he was not given opportunity of re-employment.

14. On the other hand, the respondents have not disputed the fact that the petitioner worked in their establishment, however, the plea of the respondents is that the petitioner respondent No.1 has allotted the work of project to the respondent No.2 and the respondent No.2 has further allotted the work to private contractors. The petitioner worked at their dam site with contractor Dhan Bahadur Sahi from 1-5-2014 to 31-8-2015 and when Dhan Bahadur Sahi left the job, the work was given to the another contractor Sarvan Kumar and the petitioner worked with him from 1-9-2015 to 24-10-2015 and he had received salary of the said period. They have also denied that the services of the petitioner were terminated by them and have claimed that the petitioner left the job on his own. Thus, the respondents have denied the relationship of employer and employee between them and the petitioner.

15. It is fairly settled by now that the onus to prove the relationship of employer and employee is on the workman. Hon'ble Supreme Court in Workmen of Nilgiri Coop. Mktg. Soc.

Ltd. vs. State of Tamil Nadu, (2004) 3 SCC 514, has held that it is a well settled principle of law that the person, who set up a plea of existence of relationship of employer and employee, the burden would be upon him to prove the same.

16. Hon'ble High Court in **Rakesh Sharma vs. Indian Oil Corporation and Another, 2019 LLR 1109** has held that it is for the workman to prove that there is relationship of employer and employee between the parties.

17. Thus, in view of the law laid down in abovsaid cases the petitioner has to prove that he was engaged by the respondents.

18. The petitioner Mustaq Ali appeared as PW1 and filed affidavit Ext. PW1/A in his examination-chief wherein he affirmed all the averments made in the petition. He has also tendered copies of salary slips Ext.PW1/B to Ext. PW1/O in evidence. In his cross examination he has denied that he worked with the contractor Dhan Bahadur Sahi *w.e.f.* 1-5-2014. He has admitted that the company used to issue identity card and salary slips to its workmen. He has not produced any identity card on record. He has also not produced any record regarding his engagement in the company *w.e.f.* 8-5-2013 and added that company had not given any record. He has denied that he worked with Dhan Bahadur Sahi *w.e.f.* 1-5-2014 to 31-8-2015 and with contractor Shri Sarvan Kumar *w.e.f.* 1-9-2015 to 24-10-2015. He has admitted that salary slips have been signed by contractor Dhan Bahadur Sahi and added that these salary slips have been issued by the company. He has admitted that he had left the work at his own. He, however, has denied that his services were never terminated by the company.

19. On the other hand, the respondents have examined Mr. Roshan Maindan, Manager HR as RW1. He has filed his affidavit Ext. RW1/A in his examination-in-chief wherein he has affirmed the averments made in the reply. He has also tendered the copies of reply Ext. RW1/B filed before the Labour-cum-Conciliation Officer and reply dated 18-7-2019 Ext. RW1/C and copy of muster roll Ext. RW1/D1 to D12 in evidence. In his cross-examination he has admitted that petitioner worked in their company *w.e.f.* 8-5-2013 to 29-10-2015 and added that he was not their employee but he had worked with the contractor to whom the work was allotted by the company. He has placed wage sheets of the workers on the record. He has admitted that no notice was served upon the petitioner and no compensation was paid to him and added that it was not required as he was not their employee. He has denied that no workers were engaged after the petitioner by the company. He has denied that the services of the petitioner were illegally terminated by the respondents. He has denied that the work is still available in the company and added that construction phase stand accomplished by 2022.

20. Thus it is evident from the resume of the evidence of Mustaq Ali (PW1) and Shri Roshan Maindan (RW1) that the petitioner has not led cogent evidence on record to prove that he was engaged by the respondent company and he was their employee. The petitioner (PW1) has stated that he was engaged in the establishment of the respondents as mechanical helper on 8-5-2013 and he continuously worked till 29-10-2015 whereafter his services were illegally terminated by the respondents whereas Shri Roshan Maindan RW1 has stated that the petitioner was not engaged by them rather he was the employee of the contractors and that he worked with private contractor Dhan Bahadur Sahi *w.e.f.* 1-5-2014 to 31-8-2015 and thereafter the work was awarded another contractor Shri Sarvan Kumar and the petitioner worked as labour of Sarvan Kumar *w.e.f.* 1-9-2015 to 24-10-2015.

21. The petitioner himself has filed the pay slips Ext. PW1/B to Ext. PW1/O on record, the perusal of which would show that the pay slips Ext. PW1/B to Ext. PW1/N till August 2015 pertaining to the petitioner has issued in the name of Dhan Bahadur Shahai c/o Gammon India

Limited and Ext. PW1/O has been issued in the name of Sarvan Kumar, which proves the plea of the respondents that the petitioner was employee of contractor Dhan Bahadur Sahi to whom work was awarded by them and thereafter he was employee of contractor Sarvan Kumar. The petitioner himself produced these pay slips on record and he has not disputed the name of the contractor written on these slips; rather in his cross-examination has admitted that the salary slips have been signed by Dhan Bahadur Shahai, though he has added that the salary slips had been issued by the company. Not only this, the petitioner (PW1) has admitted that the company used to issue identity card to its employee/workmen and he has not produced his identity card on record nor has he produced any record regarding his engagement in the company w.e.f. 8.5.2013, in the absence of which, the evidence of the petitioner that he was engaged by the respondent contradicted by pay slips Ext. PW1/B to Ext. PW1/O issued in the name of contractor Dhan Bahadur Shahai and Sarvan Kumar, cannot be accepted.

22. There is nothing in the evidence of Roshan Maindan RW1 from which it could be inferred that the petitioner was engaged by the respondent company as mechanical helper. Though Roshan Maindan RW1, in his cross-examination, has admitted that the petitioner worked in their company *w.e.f.* 8-5-2013 to 29-10-2015 yet he categorically added that he was not their employee and that he had worked with the contractor to whom the contract was awarded by the respondent company. He has also admitted that no notice was served upon the petitioner and no compensation was paid to him but he has added that it was not required as he was not their worker. Thus, despite his lengthy cross-examination, he has maintained his stand that the petitioner was not their employee which fact is also proved from pay/wage sheets Ext.RW1/D1 to D12 out of which the pay sheet from 1-8-2015 to 31-8-2015 Ext. RW1/D1 and Ext. RW1/D2, wage sheet for the month of July Ext. RW1/D3 and for the month of August 2015 Ext. RW1/D4 have been issued in the name of contractor Dhan Bahadur Shahai and thereafter wage sheet Ext. RW1/D5 to Ext. RW1/D12 from September, 2015 to January 2016 have been issued in the name of contractor Sarvan Kumar and the petitioner has been shown as one of the employee of these contractors, which in turn also substantiate the plea of the respondents' that the petitioner was employee of the contractors.

23. Therefore, in view of my above observations, it can safely be concluded that the petitioner was not engaged by the respondents as claimed by him; rather he was engaged by the contractors Shri Dhan Bahadur Sahi and thereafter Shri Sarvan Kumar and he was the employee of the contractor which material facts has been suppressed by the petitioner from the court.

24. Learned counsel for the petitioner has also relied upon **Narain Singh versus State of Himachal Pradesh 2016(3) Him. L.R. 1875, Mohd. Ali v/s The State of Himachal Pradesh and others Latest HLJ 2015 (HP) 93** and **Punjab Laminates Private Limited Versus Sh. Gurdas Ram, 2017 (1) Him. L.R. 312** in support of the case of the petitioner, however, as has been observed above, the petitioner has failed to prove relationship of employee and employer between him and the respondents, therefore, these authorities are not applicable to the present case.

25. Hence, in view of my above observations, it can safely be concluded that the petitioner has failed to prove that he was engaged by the respondents on 8-5-2013 and he was employee of the respondents, and his services were terminated by the respondents. Even otherwise, the petitioner himself, in his cross-examination, has admitted that he has left the work on his own and therefore his services cannot be said to have been illegally terminated by the respondents. Even if this fact is ignored, even then the petitioner has failed to prove that he was employee of the respondents and therefore question of terminating his services by the respondents and violation of provisions of Sections 25-G and 25-H of the I.D. Act does not arise at all and thus the petitioner is not entitled to any relief. Hence the issues No. 1 to 3 are decided against the petitioner and issue No.6 is decided in favour of the respondents and are answered as such.

Issue No. 4

26. In view of my findings returned on issues No.1 to 3 above, the petition is not maintainable. Hence this Issue is decided against the petitioner and in favour of the respondent and is answered in affirmative.

Issue No. 5

27. In view of my findings returned on issues No.1 to 3 above, since, the petitioner was not engaged by the respondents, he has no locus standi to file the petition against the respondents and he has failed to prove the cause of action. Hence this issue is decided in favour of the respondents and answered in affirmative.

Issue No.7

28. Neither any evidence has been led nor any arguments were addressed as to what act and conduct of the petitioner estopped him to file the petition. Hence this issue is decided against the respondent and is answered in negative.

Relief

29. In view of my findings returned on the above issues, the present claim petition fails and is accordingly dismissed. However, under the facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

30. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of November, 2023.

Sd/-,

(NARESH KUMAR)
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, (H.P.).

CHANGE OF NAME

I, Balesh Kumar s/o Sh. Laxmi Dass, r/o H.No. 100/4, VPO Bhojpur, Tehsil Sundernagar declare that I have changed my name from Balesh Kumar to Balesh Sharma. It will be Balesh Sharma in future too. Concerned may note.

BALESHPUR
s/o Sh. Laxmi Dass,
r/o H.No. 100/4,
VPO Bhojpur, Tehsil Sundernagar.

CHANGE OF NAME

I, Anita Chorasia w/o Raj Kumar, r/o H.No. 32/4, Building Near Konark Hotel, Solan (H.P.) have changed my name from Anita Chorasia to Shiv Kumari.

ANITA CHORASIA
*w/o Raj Kumar,
r/o H.No. 32/4, Building Near Konark Hotel,
Solan (H.P.).*

CHANGE OF NAME

I, Anju Bala w/o Pankaj Kumar, r/o Village Bari, P.O. Boungta, Teh. Dehra, Distt. Kangra (H.P.) declare that in education record of my daughter Mahi Mehra my name is wrongly entered as Anju. Whereas my correct name is Anju Bala. Please Note.

ANJU BALA
*w/o Pankaj Kumar,
r/o Village Bari, P.O. Boungta,
Teh. Dehra, Distt. Kangra (H.P.).*

CHANGE OF NAME

I, Diwan Chand Verma s/o Jamna Dass, r/o Village Chanyana, P.O. Tatta Pani, Teh. Karsog, Distt. Mandi (H.P.) have changed my name from Diwan Chand Verma to Devan Verma.

DIWAN CHAND VERMA
*s/o Jamna Dass,
r/o Village Chanyana, P.O. Tatta Pani,
Teh. Karsog, Distt. Mandi (H.P.).*

CHANGE OF NAME

I, Har Devi w/o Service No. JC143672P, Rank Ex. Sub. Karam Chand, Vill. Khalasal, P.O. Jabloo, Teh. Jhandutta, Distt. Bilaspur (H.P.) declare that my name is wrongly entered as Herdei in my Panchayat Pariwar Register record at G.P. Nakhlehra instead my correct name is Har Devi. Concerned note.

HAR DEVI
*w/o Rank Ex. Sub. Karam Chand,
Vill. Khalasal, P.O. Jabloo,
Teh. Jhandutta, Distt. Bilaspur (H.P.).*

CHANGE OF NAME

I, Chander Prabha w/o Tarun Kumar, r/o Bye Pass Road, Kather, P.O. Chambaghat, Distt. Solan (H.P.) have changed my minor daughter's name from Trijal to Takshvi.

CHANDER PRABHA
*w/o Tarun Kumar,
r/o Bye Pass Road, Kather,
P.O. Chambaghat, Distt. Solan (H.P.).*

CHANGE OF NAME

I, Veena Rani s/o Sh. Krishan Pal, r/o Rakkar Colony, Tehsil & District Una (H.P.) declare that I have changed my name from Veena Thakur to Veena Rani. All concerned note.

VEENA RANI
*s/o Sh. Krishan Pal,
r/o Rakkar Colony,
Tehsil & District Una (H.P.).*

CHANGE OF NAME

I, Kala Wati w/o Army No. 1224342 GNR Late Tota Ram, r/o Village Sharog, P.O. Thachi, Sub-Tehsil Dhami, Distt. Shimla (H.P.) declare that I have changed my name from Neemawati Devi to Kala Wati and my correct DOB is 01-07-1948 in my husband's service record vide affidavit No. IN-HP21645364561902W, dated 08-08-2024 before Executive Magistrate, Shimla.

KALA WATI
*w/o Army No. 1224342 GNR Late Tota Ram,
r/o Village Sharog, P.O. Thachi,
Sub-Tehsil Dhami, Distt. Shimla (H.P.).*

CHANGE OF NAME

I, Nand Lal Verma s/o Roop Ram, Village Pohri, P.O. Bathalang, Tehsil Arki, Distt. Solan (H.P.) declare that I have changed my name from Nand Lal Verma to Nand Lal which may be read & treated for all intents and purpose from today onwards. Note all concern.

NAND LAL VERMA
*s/o Roop Ram,
Village Pohri, P.O. Bathalang,
Tehsil Arki, Distt. Solan (H.P.).*

CHANGE OF NAME

I, Aryan Deval (24) s/o Deepak Kumar, r/o Village Noun, P.O. Rajnagar, Tehsil & Distt. Chamba (H.P.) declare that in my school certificate my mother's and father's name is inadvertently written as Indu Bala Thakur and Deepak Kumar Thakur respectively instead of their correct names i.e. Indu Bala (Mother) and Deepak Kumar (Father) which may be corrected.

ARYAN DEVAL
s/o Deepak Kumar,
r/o Village Noun, P.O. Rajnagar,
Tehsil & Distt. Chamba (H.P.).

CHANGE OF NAME

I, Rajesh Kumari Rana w/o Rajendra Munshi Ram Rana, VPO Bari, Sub-Tehsil Bhawarna, District Kangra (H.P.) declare that in my new Pan Card mentioned correct name is Rajesh Kumari Rana, whereas Rajesh Kumari Rana & Rajeshkumari Rajendra Rana is one and same person.

RAJESH KUMARI RANA
w/o Rajendra Munshi Ram Rana,
VPO Bari, Sub-Tehsil Bhawarna,
District Kangra (H.P.).

CHANGE OF NAME

I, Krishan Pal s/o Sh. Bhagwan Dass, r/o Rakkar Colony, Tehsil & District Una (H.P.) declare that I have changed my name from Krishan Pal thakur to Krishan Pal. All concerned note.

KRISHAN PAL
s/o Sh. Bhagwan Dass,
r/o Rakkar Colony,
Tehsil & District Una (H.P.).

ब अदालत कार्यकारी दण्डाधिकारी प्रथम श्रेणी एवं तहसीलदार, भुन्तर,
जिला कुल्लू, हिमाचल प्रदेश

केस नं० : 07-MT / 2024

दायर तिथि : 03-03-2024

1. श्री मुनीष गौतम पुत्र श्री राजेन्द्र प्रसाद, निवासी नारनोद, जिला हिसार, हरियाणा हाल निवासी गांव व डाठो शियाह, तहसील भुन्तर, जिला कुल्लू, हिमाचल प्रदेश।

2. श्रीमती डिम्पल गौतम पुत्री श्री दुनी चन्द, निवासी गांव व डाकघर शियाह, तहसील भुन्तर, जिला कुल्लू, हिमाचल प्रदेश।

बनाम

सर्वसाधारण एवं आम जनता

विषय.— प्रार्थना—पत्र जेर धारा 5(4) हिं0 प्र० रजिस्ट्रीकरण नियम, 2004 विवाह पंजीकरण बारे।

उपरोक्त मामला में प्रार्थीगण ने दिनांक 03—03—2022 को इस अदालत में प्रार्थना—पत्र मय शपथ पेश किये हैं कि उन्होंने दिनांक 12—03—2007 को हिन्दु रीति—रिवाज के अनुसार शादी कर ली है और तब से दोनों पति—पत्नी के रूप में रहते चले आ रहे हैं परन्तु प्रार्थीगण ने अपनी शादी का इन्द्राज सम्बन्धित ग्राम पंचायत मन्डली, तहसील भुन्तर, जिला कुल्लू, हिं0प्र० में दर्ज नहीं करवाया है।

अतः सर्वसाधारण व आम जनता को इस इश्तहार द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त प्रार्थीगण की शादी से सम्बन्धित ग्राम पंचायत के अभिलेख में दर्ज करने बारे एतराज हो तो वह दिनांक 19—08—2024 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत आकर अपना एतराज दर्ज करवा सकता है। इसके उपरान्त कोई भी एतराज समायत न होगा तथा नियमानुसार शादी दर्ज करने के आदेश सम्बन्धित ग्राम पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 18—07—2024 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित /—
कार्यकारी दण्डाधिकारी प्रथम श्रेणी एवं तहसीलदार,
भुन्तर, जिला कुल्लू, हिं0प्र०।

ब अदालत तहसीलदार एवं सहायक समाहर्ता प्रथम श्रेणी, तहसील भुन्तर,
जिला कुल्लू (हिं0प्र०)

केस नं० : 22—CT/2024

दायर तिथि : 26—03—2018

श्री नरेश सिंह पुत्र श्री कर्म सिंह पुत्र चुहडू, निवासी गांव भाटग्रां, डाकघर पिपलागे, तहसील भुन्तर,
जिला कुल्लू (हिं0प्र०) प्रार्थी।

बनाम

सर्वसाधारण एवं आम जनता

प्रत्यार्थी।

विषय.—दरख्वास्त बराये कागजात माल में जाती की दुरुस्ती बारे।

श्री नरेश सिंह पुत्र श्री कर्म सिंह पुत्र चुहडू, निवासी गांव भाटग्रां, डाकघर पिपलागे, तहसील भुन्तर,
जिला कुल्लू (हिं0प्र०) द्वारा दिनांक 26—03—2018 को इस अदालत में प्रार्थना—पत्र पेश किया है कि उसकी
जाती सहबन गलती से फाटी दियार कोठी कोटकण्डी के राजस्व दस्तावेज में कोली की जगह अन्य दर्ज हुई
है। जोकि गलत इन्द्राज हुई है। अब प्रार्थी अराजी हजा के इन्द्राज में अपनी जाती अन्य से दुरुस्त करके
कोली दर्ज करना चाहता है।

अतः सर्वसाधारण को इस इश्तहार द्वारा सूचित किया जाता है कि यदि किसी को उपरोक्त प्रार्थी की जाती दुरुस्ती का इन्द्राज करने बारे कोई एतराज हो तो वह दिनांक 19-08-2024 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत आकर अपना एतराज दर्ज करवा सकता है। इसके उपरान्त कोई भी एतराज समायत न होगा तथा नियमानुसार जाती दुरुस्ती का इन्द्राज करने के आदेश पारित कर दिए जाएंगे।

आज दिनांक 18-07-2024 को मेरे हस्ताक्षर व मोहर अदालत जारी हुआ।

मोहर।

हस्ताक्षरित /—
कार्यकारी दण्डाधिकारी प्रथम श्रेणी एवं तहसीलदार,
भुन्तर, जिला कुल्लू (हि0प्र0)।

ब अदालत सहायक समाहर्ता द्वितीय श्रेणी, उप तहसील नित्थर, जिला कुल्लू (हि0प्र0)

मिसल नं0 : 13 / 2024

दिनांक मरजुआ : 10-07-2024

तारीख पेशी : 20-08-2024

उनवान मुकद्दमा : इन्द्राज सेहत नाम

श्रीमती दुर्गेश नन्दनी पत्नी श्री हरदयाल सिंह, निवासी गांव डवारच, उप-तहसील नित्थर, जिला कुल्लू (हि0प्र0) प्रार्थिया।

बनाम

आम जनता

...फरीकदोयम।

प्रार्थना पत्र—U/S 35 ता 37 हिमाचल प्रदेश भू-राजस्व अधिनियम 1954, के अन्तर्गत बाबत नाम दुरुस्ती बारे।

श्रीमती दुर्गेश नन्दनी पत्नी श्री हरदयाल सिंह, निवासी गांव डवारच, उप-तहसील नित्थर, जिला कुल्लू ने अधोहस्ताक्षरी के कार्यालय में एक प्रार्थना-पत्र मय शपथ-पत्र व अन्य दस्तावेजों सहित प्रस्तुत किया। जिसमें वर्णन किया गया कि उसका नाम राजस्व अभिलेख फाटी नित्थर में दुर्गेशवरी नन्दनी लिखा गया है जोकि गलत दर्ज हुआ है। जबकि उसका नाम दुर्गेश नन्दनी है। पंचायत रिकार्ड दुराह, आधार कार्ड, पैन कार्ड, पहचान पत्र, बैंक रिकार्ड में दुर्गेश नन्दनी पत्नी हरदयाल सिंह दर्ज है, अब प्रार्थिया ने अपना नाम राजस्व अभिलेख फाटी नित्थर में दुर्गेशवरी नन्दनी पुत्री मनी राम के स्थान पर दुर्गेश नन्दनी पुत्री मनी राम दुरुस्त करने के आदेश चाहे हैं।

अतः इश्तहार के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को राजस्व अभिलेख फाटी नित्थर में दुर्गेशवरी नन्दनी के स्थान पर दुर्गेश नन्दनी दुरुस्ती करने बारा कोई उजर/एतराज हो तो वह असालतन/वकालतन तारीख पेशी 20-08-2024 को प्रातः 10 बजे तक इस अदालत में हाजिर होकर अपना उजर/एतराज पेश कर सकते हैं। बसूरत गैर हाजरी एकतरफा कार्यवाही अमल में लाई जाकर राजस्व अभिलेख फाटी नित्थर में नाम दुरुस्ती दर्ज करने के आदेश पारित कर दिए जाएंगे।

यह इश्तहार आज दिनांक 20-07-2024 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित /—
सहायक समाहर्ता द्वितीय श्रेणी,
उप-तहसील नित्थर, जिला कुल्लू (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी, तहसील मनाली, जिला कुल्लू (हि०प्र०)

श्री सुख राम पुत्र श्री रुलदा राम, निवासी गांव बाड़ी, डाकघर पतलीकुहल, तहसील मनाली जिला कुल्लू हिमाचल प्रदेश।

बनाम

आम जनता

विषय.— प्रकाशन इश्तहार बाबत मृत्यु तिथि दर्ज करने बारे।

श्री सुख राम पुत्र श्री रुलदा राम, निवासी गांव बाड़ी, डाकघर पतलीकुहल, तहसील मनाली जिला कुल्लू हिमाचल प्रदेश ने इस न्यायालय में आवेदन पत्र मय शपथ—पत्र गुजारा है कि उसके पिता श्री रुलदा राम की मृत्यु 09-07-1980 को हुई है। परन्तु ग्राम पंचायत हलाण-2 के जन्म व मृत्यु पंजीकरण अभिलेख में दर्ज दर्ज नहीं है। जिसे अब वह दर्ज करवाना चाहते हैं। इस बाबत क्षेत्रीय अभीकरणों से छानबीन करवाई गई तथा पाया गया कि श्री रुलदा राम पुत्र जमेहू की मृत्यु तिथि 09-07-1980 है तथा मृत्यु तिथि दर्ज करने बारे सिफारिश की गई है।

अतः सर्वसाधारण को इस इश्ताहार द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति विशेष को श्री रुलदा राम पुत्र जमेहू की मृत्यु तिथि दर्ज करवाने बारे आपत्ति हो तो वह दिनांक 28-08-2024 को या इससे पूर्व अदालत हजा में अपनी आपत्ति दर्ज करवा सकता है। इसके उपरान्त कोई भी उजर/एतराज मान्य नहीं होगा तथा नियमानुसार ग्राम पंचायत हलाण-2 के जन्म तथा मृत्यु पंजीकरण अभिलेख में मृत्यु तिथि दर्ज करने के आदेश पारित कर दिये जाएंगे।

आज दिनांक 12-07-2024 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

हस्ताक्षरित /—
कार्यकारी दण्डाधिकारी,
तहसील मनाली, जिला कुल्लू (हि०प्र०)।

**In the Court of Sh. Sunil Kumar, HPAS, Sub-Divisional Magistrate, Sangrah,
District Sirmaur (H. P.)**

1. Sh. Durga Singh s/o Sh. Bheem Bahadur, r/o V.P.O. Nohradhar, Tehsil Nohradhar, District Sirmaur (H.P.).

2. Smt. Laxmi d/o Sh. Bhim Bahadur, r/o V.P.O. Nohradhar, Tehsil Nohradhar, District Sirmaur (H.P.).

Versus

General Public

Subject.—Registration of marriage under section 8(4) of the H.P. Registration of Marriage Act, 1996.

Sh. Durga Singh s/o Sh. Bheem Bahadur, r/o V.P.O. Nohradhar, Tehsil Nohradhar, District Sirmaur (H.P.) & Smt. Laxmi d/o Sh. Sh. Bhim Bahadur, r/o V.P.O. Nohradhar, Tehsil Nohradhar,

District Sirmaur (H.P.) have filed an application alongwith affidavits in the court of undersigned stating therein that they have solemnized their marriage on 19-06-2023 but the marriage has not been found entered in the records of Registrar of Marriages, Gram Panchayat Nohradhar, Development Block Sangrah, District Sirmaur, Himachal Pradesh.

Therefore, objections are hereby invited from the general public through this notice that if anyone has any objection regarding registration this marriage, they can file their objections personally or in writing before this court on or before 29-08-2024, after that no objection shall be entertained and marriage will be registered accordingly.

Issued under my hand and seal of the court today on 30th July, 2024.

Seal.

Sd/-
(SUNIL KUMAR),
Sub-Divisional Magistrate,
Sangrah, District Sirmaur (H.P.).

ब अदालत श्री इन्द्र कुमार, सहायक समाहर्ता द्वितीय श्रेणी, उप-तहसील माजरा,
जिला सिरमौर (हि० प्र०)

श्रीमती लज्जा देवी पुत्री श्री हरि चन्द, निवासी ग्राम कोदेवाला, डाकघर व पंचायत हरिपुर खोल,
उप-तहसील माजरा, जिला सिरमौर, हि० प्र०।

बनाम

आम जनता

उनवान मुकद्दमा—प्रार्थना—पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्रीमती लज्जा देवी पुत्री श्री हरि चन्द, निवासी ग्राम कोदेवाला, डाकघर व पंचायत हरिपुर खोल,
उप-तहसील माजरा, जिला सिरमौर, हि० प्र० ने एक प्रार्थना—पत्र प्रस्तुत करके निवेदन किया है कि आवेदिका
किन्हीं कारणों से अपनी जन्म तिथि 29-12-1971 का इन्द्राज निर्धारित अवधि के अन्दर सम्बन्धित ग्राम
पंचायत हरिपुर खोल में दर्ज नहीं करवा पाई है। इस बारे आवेदिका द्वारा एक व्यान हल्फी भी पेश किया गया
है तथा इस सम्बन्ध में दो गवाहों के शपथ पत्र भी आवेदिक ने अपने प्रार्थना—पत्र के साथ संलग्न किये हैं।
आवेदिका ने ग्राम पंचायत हरिपुर खोल में अपनी जन्म तिथि 29-12-1971 को दर्ज करने का अनुरोध किया
है। अतः इस इश्तहार द्वारा आम जनता को सूचित किया जाता है कि यदि किसी भी व्यक्ति को श्रीमती
लज्जा देवी पुत्री श्री हरि चन्द, निवासी ग्राम कोदेवाला, डाकघर व पंचायत हरिपुर खोल, उप-तहसील माजरा
में दर्ज करने बारे कोई एतराज हो तो वह इश्तहार के प्रकाशन के 30 दिन के अंदर या इससे पूर्व हमारे
न्यायालय में हाजिर होकर लिखित अथवा मौखिक एतराज पेश कर सकता है। उक्त समयावधि के बाद कोई
भी एतराज मान्य नहीं होगा और समझा जाएगा कि उक्त जन्म तिथि को सम्बन्धित ग्राम पंचायत हरिपुर खोल
में दर्ज करने बारे किसी को कोई एतराज नहीं है तथा नियमानुसार जन्म तिथि पंजीकरण के ओदेश जारी कर
दिया जायेंगे।

आज दिनांक 07-05-2024 को मेरे हस्ताक्षर व कार्यालय मोहर अदालत द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित /—
सहायक समाहर्ता द्वितीय श्रेणी,
उप-तहसील माजरा, जिला सिरमौर (हि०प्र०)।

ब अदालत श्री इन्द्र कुमार, सहायक समाहर्ता द्वितीय श्रेणी, उप-तहसील माजरा,
जिला सिरमौर (हि० प्र०)

श्री हितेश कुमार पुत्र स्व० श्री अशोक, निवासी ग्राम, डाकघर व पंचायत माजरा, उप-तहसील माजरा,
जिला सिरमौर, हि० प्र० ।

बनाम

आम जनता

उनवान मुकद्दमा—प्रार्थना—पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री हितेश कुमार पुत्र स्व० श्री अशोक, निवासी ग्राम, डाकघर व पंचायत माजरा, उप-तहसील माजरा,
जिला सिरमौर, हि० प्र० ने एक प्रार्थना—पत्र प्रस्तुत करके निवेदन किया है कि आवेदक किन्हीं कारणों से
अपनी दादी मां की मृत्यु तिथि 12-06-2022 का इन्द्राज निर्धारित अवधि के अन्दर सम्बन्धित ग्राम पंचायत
माजरा में दर्ज नहीं करवा पाया है। इस बारे आवेदक द्वारा एक व्यान हल्फी भी पेश किया गया है तथा इस
सम्बन्ध में दो गवाहों के शपथ पत्र भी आवेदक ने अपने प्रार्थना—पत्र के साथ संलग्न किये हैं। आवेदक ने
ग्राम पंचायत माजरा में अपनी दादी मां की मृत्यु तिथि 12-06-2022 को दर्ज करने का अनुरोध किया है।
अतः इस इश्तहार द्वारा आम जनता को सूचित किया जाता है कि यदि किसी भी व्यक्ति को श्री हितेश कुमार
पुत्र स्व० श्री अशोक, निवासी ग्राम, डाकघर व पंचायत माजरा, उप-तहसील माजरा में दर्ज करने बारे कोई
एतराज हो तो वह इश्तहार के प्रकाशन के 30 दिन के अंदर या इससे पूर्व हमारे न्यायालय में हाजिर होकर
लिखित अथवा मौखिक एतराज पेश कर सकता है। उक्त समयावधि के बाद कोई भी एतराज मान्य नहीं होगा
और समझा जाएगा कि उक्त तिथि को सम्बन्धित ग्राम पंचायत माजरा में दर्ज करने बारे किसी को कोई
एतराज नहीं है तथा नियमानुसार मृत्यु तिथि पंजीकरण के ओदश जारी कर दिया जायेंगे।

आज दिनांक.....को मेरे हस्ताक्षर व कार्यालय मोहर अदालत द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता द्वितीय श्रेणी,
उप-तहसील माजरा, जिला सिरमौर (हि०प्र०)।

ब अदालत तहसीलदार एवं सहायक समाहर्ता प्रथम वर्ग ऊना,
जिला ऊना (हि० प्र०)

केस नं० : 62 / PTH / 2023

खेवट नं० 13

महाल : मानूवाल

जोगिन्द्र सिंह पुत्र श्री रघुवीर सिंह, वासी नंगल खुर्द, तहसील हरोली जिला ऊना (हि०प्र०) वादी।

बनाम

श्रीमती सुनीता ठाकुर पत्नी सन्दीप कुमार, वासी नंगल खुर्द, तहसील हरोली जिला ऊना (हि०प्र०)
प्रतिवादी।

इश्तहार बाबत भू—तकसीम

विषय— खेवट नं० 13, खतौनी नं० 16, कित्ता 1, महाल मानूवाल, जमाबन्दी साल 2017-18, तहसील हरोली,
जिला ऊना (हि०प्र०)।

उक्त अनुवाद वाला मुकदमा इस न्यायालय को विश्वास हो चुका है। उक्त प्रतिवादी की तामील साधारण ढंग से नहीं हो सकी है। इसलिए समाचार पत्र में प्रकाशित इस इश्तहार के द्वारा सूचित किया है कि मुकदमा की पैरवी हेतु असालतन या वकालतन इस न्यायालय में दिनांक 23-08-2024 को प्रातः 11.00 बजे उपस्थित होवे। बावजूद इश्तहार हाजिर न आने की सूरत में आपके खिलाफ एकतरफा कार्यवाही अमल में लाई जाकर नियमानुसार मुकदमा का निपटारा कर दिया जाएगा।

आज दिनांक 25-07-2024 को मेरे हस्ताक्षर व मोहर न्यायालय जारी हुआ।

मोहर।

हस्ताक्षरित/-
तहसीलदार एवं सहायक समाहर्ता प्रथम वर्ग,
जिला ऊना (हिं0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी, गगरेट स्थित कलोह, उप-तहसील गगरेट, जिला ऊना (हिं0प्र0)

1. श्री अंकुश शर्मा पुत्र श्री सरदारी लाल, निवासी वार्ड नं0 01, वासी गांव राम नगर गगरेट, उप-तहसील गगरेट स्थित कलोह, जिला ऊना (हिं0प्र0)।

2. श्रीमती आरती देवी पुत्री श्री कृष्ण देव, निवासी गांव व डाकघर कुठेड़ा खैरलां, तहसील अम्ब, हाल पत्नी श्री अंकुश शर्मा पुत्र श्री सरदारी लाल, निवासी वार्ड नं0 01, वासी गांव राम नगर गगरेट, उप-तहसील गगरेट स्थित कलोह, जिला ऊना (हिं0प्र0) .प्रार्थीगण।

बनाम

आम जनता

विषय.—प्रार्थना—पत्र अधीन धारा 8(4) विवाह पंजीकरण अधिनियम, 1996.

श्री अंकुश शर्मा पुत्र श्री सरदारी लाल, निवासी वार्ड नं0 01, वासी गांव राम नगर गगरेट, उप-तहसील गगरेट स्थित कलोह, जिला ऊना (हिं0प्र0) व श्रीमती आरती देवी पुत्री श्री कृष्ण देव, निवासी गांव व डाकघर कुठेड़ा खैरलां, तहसील अम्ब, हाल पत्नी श्री अंकुश शर्मा पुत्र श्री सरदारी लाल, निवासी वार्ड नं001, वासी गांव राम नगर गगरेट, उप-तहसील गगरेट स्थित कलोह, जिला ऊना (हिं0प्र0) ने इस न्यायालय में प्रार्थना—पत्र मय शपथ पत्र पेश किया है कि उनकी शादी दिनांक 25-01-2023 को गगरेट में मुताबिक हिन्दू रीति रिवाज से हुई थी परन्तु अज्ञानतावश शादी का पंजीकरण नगर पंचायत गगरेट के अभिलेख में नहीं करवाया है। प्रार्थी व प्रार्थिया ने अपनी शादी की पुष्टि बारे अपनी विवाह की फोटो, शपथ—पत्र, आधार कार्ड आदि दस्तावेज प्रार्थना—पत्र के साथ संलग्न किए हैं। रिपोर्ट सम्बन्धित स्थानीय पंजीकार विवाह पंजीकरण नगर पंचायत के अनुसार उक्त शादी सम्बन्धित नगर पंचायत गगरेट में दर्ज न है, अब प्रार्थीगण अपनी शादी पंजीकृत करवाना चाहता है।

अतः आम जनता को इस इश्तहार/मुश्त्री मुनादी द्वारा सूचित किया जाता है कि यदि किसी भी व्यक्ति को उक्त शादी दर्ज करने बारे कोई उजर/एतराज हो तो वह दिनांक 15-08-2024 को दोपहर 2.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत होकर पेश करें गैर हाजरी की सूरत में एकतरफा कार्यवाही करके नियमानुसार सम्बन्धित नगर पंचायत गगरेट को शादी दर्ज करने का आदेश जारी कर दिया जाएगा।

आज दिनांक 15-06-2024 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

चैन सिंह,
कार्यकारी दण्डाधिकारी,
गगरेट स्थित कलोह, जिला ऊना (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी, ऊना, तहसील एवं जिला ऊना (हि0प्र0)

मिसल नं0 : 24 / Corr/T/U/2024

किस्म मुकद्दमा : नाम दुरुस्ती

तारीख पेशी : 24-08-2024

प्रकाश चन्द पुत्र किरपू राम, वासी प्रोफेसर कलोनी, तहसील व जिला ऊना (हि0प्र0) . वादी।

बनाम

आम जनता

. प्रतिवादी।

इश्तहार राजपत्र हिमाचल प्रदेश मुस्त्री मुनादी व चर्पांगी।

प्रार्थी प्रकाश चन्द पुत्र किरपू राम, वासी प्रोफेसर कलोनी, तहसील व जिला ऊना (हि0प्र0) ने इस अदालत में प्रार्थना पत्र दायर किया है कि उसकी पुत्री का नाम राजस्व अभिलेख उप मोहाल मलाहत नगर में तोतू पुत्र किरपू राम दर्ज है जबकि मेरा सही नाम प्रकाश चन्द पुत्र किरपू राम है, लिहाजा इसे दुरुस्त करके तोतू उर्फ प्रकाश चन्द पुत्र किरपू किया जाए, प्रार्थी का शपथ-पत्र, आधार कार्ड, नकल जमाबन्दी तथा अन्य कागजात मिसल साथ संलग्न हैं।

अतः नोटिस इश्तहार राजपत्र, हिमाचल प्रदेश मुस्त्री मुनादी व चर्पांगी के माध्यम से आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि अगर किसी को उपरोक्त नाम दुरुस्ती बारे कोई उजर व एतराज हो तो दिनांक पेशी 24-08-2024 को सुबह 10.00 बजे इस न्यायालय में असालतन या वकालतन अपना एतराज अधोहस्ताक्षरी के न्यायालय में उपरित्थित होकर पेश कर सकता है अन्यथा उपरोक्त नाम दुरुस्त करने के आदेश दे दिए जाएंगे। उसके उपरान्त कोई एतराज न सुना जाएगा।

आज दिनांक 20-07-2024 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित /-,
कार्यकारी दण्डाधिकारी,
ऊना, जिला ऊना (हि0प्र0)।

ब अदालत जनाब उप-मण्डल दण्डाधिकारी, सदर, जिला बिलासपुर (हि0प्र0)

ब मुकद्दमा श्रीमती रामेश्वरी पुत्री श्री दौलत राम, निवासी गांव रानी कोटला, डा० रानी कोटला, तहसील सदर, जिला बिलासपुर (हि0प्र0) . प्रार्थिया।

बनाम

आम जनता

विषय—प्रार्थना—पत्र जन्म एवं मृत्यु रजिस्ट्रीकरण अधिनियम, 1969 के अन्तर्गत जन्म तिथि दर्ज करने वारा।

नोटिस बनाम आम जनता।

उपरोक्त मुकदमा उनवान वाला में प्रार्थिया श्रीमती रामेश्वरी पुत्री श्री दौलत राम, निवासी गांव रानी कोटला, डा० रानी कोटला, तहसील सदर, जिला बिलासपुर (हि०प्र०) ने इस अदालत में प्रार्थना—पत्र दिया है कि उसकी जन्म तिथि संबंधित ग्राम पंचायत के रिकार्ड में दर्ज नहीं है उसकी जन्म तिथि 06—04—1975 है जिसे दर्ज करने के आदेश दिये जायें।

अतः आम जनता को इस नोटिस द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त प्रार्थिया श्रीमती रामेश्वरी पुत्री श्री दौलत राम, निवासी गांव रानी कोटला, डा० रानी कोटला, तहसील सदर, जिला बिलासपुर (हि०प्र०) की जन्म तिथि ग्राम पंचायत रानी कोटला, विकास खण्ड सदर, जिला बिलासपुर (हि०प्र०) के रिकार्ड में दर्ज करने के बारे कोई एतराज हो वह दिनांक 09—08—2024 तक किसी भी कार्य दिवस पर असालतन या वकालतन इस कार्यालय में उपस्थित होवें। अन्यथा श्रीमती रामेश्वरी पुत्री श्री दौलत राम, निवासी गांव रानी कोटला, डा० रानी कोटला, तहसील सदर, जिला बिलासपुर (हि०प्र०) की जन्म तिथि सम्बंधित ग्राम पंचायत रानी कोटला, विकास खण्ड सदर, जिला बिलासपुर के रिकार्ड में दर्ज करने के आदेश जारी कर दिये जायेंगे।

आज दिनांक 09—07—2024 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ है।

मोहर।

हस्ताक्षरित /—
उप—मण्डल दण्डाधिकारी,
सदर, जिला बिलासपुर (हि०प्र०)।

ब अदालत जनाब उप—मण्डल दण्डाधिकारी, सदर, जिला बिलासपुर (हि०प्र०)

ब मुकदमा श्रीमती चम्पा देवी पुत्री श्री बेसरिया, निवासी गांव व डा० धार टटोह, तहसील सदर, जिला बिलासपुर (हि०प्र०) प्रार्थिया।

बनाम

आम जनता

विषय—प्रार्थना—पत्र जन्म एवं मृत्यु रजिस्ट्रीकरण अधिनियम, 1969 के अन्तर्गत जन्म तिथि दर्ज करने वारा।

नोटिस बनाम आम जनता।

उपरोक्त मुकदमा उनवान वाला में प्रार्थिया श्रीमती चम्पा देवी पुत्री श्री बेसरिया, निवासी गांव व डा० धार टटोह, तहसील सदर, जिला बिलासपुर (हि०प्र०) ने इस अदालत में प्रार्थना—पत्र दिया है कि उसकी जन्म तिथि संबंधित ग्राम पंचायत के रिकार्ड में दर्ज नहीं है उसकी जन्म तिथि 05—01—1979 है जिसे दर्ज करने के आदेश किये जायें।

अतः आम जनता को इस नोटिस द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त प्रार्थिया श्रीमती चम्पा देवी पुत्री श्री बेसरिया, निवासी गांव व डा० धार टटोह, तहसील सदर, जिला बिलासपुर

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राजपत्र, हिमाचल प्रदेश, 19 अगस्त, 2024 / 28 श्रावण, 1946

(हि०प्र०) की जन्म तिथि ग्राम पंचायत धार टटोह, विकास खण्ड सदर, जिला बिलासपुर (हि०प्र०) के रिकार्ड में दर्ज करने के बारा कोई एतराज हो वह दिनांक 09-08-2024 तक किसी भी कार्य दिवस पर असालतन या वकालतन इस कार्यालय में उपस्थित होवें। अन्यथा श्रीमती चम्पा देवी पुत्री श्री बेसरिया, निवासी गांव व डा० धार टटोह, तहसील सदर, जिला बिलासपुर (हि०प्र०) की जन्म तिथि सम्बन्धित ग्राम पंचायत धार टटोह, विकास खण्ड सदर, जिला बिलासपुर के रिकार्ड में दर्ज करने के आदेश जारी कर दिये जायेंगे।

आज दिनांक 09-07-2024 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ है।

मोहर।

हस्ताक्षरित / –
उप-मण्डल दण्डाधिकारी,
सदर, जिला बिलासपुर (हि०प्र०)।

ब अदालत जनाब उप-मण्डल दण्डाधिकारी, सदर, जिला बिलासपुर (हि०प्र०)

ब मुकदमा श्री गीता राम पुत्र श्री किरपा राम, निवासी गांव भोजपुर, डा० सुई सुरहाड़, तहसील सदर, जिला बिलासपुर (हि०प्र०) प्रार्थी।

बनाम

आम जनता

विषय.—प्रार्थना—पत्र जन्म एवं मृत्यु रजिस्ट्रीकरण अधिनियम, 1969 के अन्तर्गत जन्म तिथि दर्ज करने बारा।

नोटिस बनाम आम जनता।

उपरोक्त मुकदमा उनवान वाला में प्रार्थीया श्री गीता राम पुत्र श्री किरपा राम, निवासी गांव भोजपुर, डा० सुई सुरहाड़, तहसील सदर, जिला बिलासपुर (हि०प्र०) ने इस अदालत में प्रार्थना—पत्र दिया है कि उसकी जन्म तिथि संबन्धित ग्राम पंचायत के रिकार्ड में दर्ज नहीं है उसकी जन्म तिथि 26-01-1983 है जिसे दर्ज करने के आदेश दिये जायें।

अतः आम जनता को इस नोटिस द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त प्रार्थीया श्री गीता राम पुत्र श्री किरपा राम, निवासी गांव भोजपुर, डा० सुई सुरहाड़, तहसील सदर, जिला बिलासपुर (हि०प्र०) की जन्म तिथि ग्राम पंचायत सुई सुरहाड़, विकास खण्ड सदर, जिला बिलासपुर (हि०प्र०) के रिकार्ड में दर्ज करने के बारा में कोई एतराज हो वह दिनांक 09-08-2024 तक किसी भी कार्य दिवस पर असालतन या वकालतन इस कार्यालय में उपस्थित होवें। अन्यथा श्री गीता राम पुत्र श्री किरपा राम, निवासी गांव भोजपुर, डा० सुई सुरहाड़, तहसील सदर, जिला बिलासपुर (हि०प्र०) की जन्म तिथि सम्बन्धित ग्राम पंचायत सुई सुरहाड़, विकास खण्ड सदर, जिला बिलासपुर के रिकार्ड में दर्ज करने के आदेश जारी कर दिये जायेंगे।

आज दिनांक 09-07-2024 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ है।

मोहर।

हस्ताक्षरित / –
उप-मण्डल दण्डाधिकारी,
सदर, जिला बिलासपुर (हि०प्र०)।

ब अदालत जनाब उप-मण्डल दण्डाधिकारी, सदर, जिला बिलासपुर (हि०प्र०)

ब मुकदमा सलोचना पुत्री श्री कृष्ण लाल, निवासी गांव पट्टा, डा० नम्होल, तहसील सदर, जिला बिलासपुर (हि०प्र०) प्रार्थिया।

बनाम

आम जनता

विषय—प्रार्थना—पत्र जन्म एवं मृत्यु रजिस्ट्रीकरण अधिनियम, 1969 के अन्तर्गत जन्म तिथि दर्ज करने बारा।

नोटिस बनाम आम जनता।

उपरोक्त मुकदमा उनवान वाला में सलोचना पुत्री श्री कृष्ण लाल, निवासी गांव पट्टा, डा० नम्होल, तहसील सदर, जिला बिलासपुर (हि०प्र०) ने इस अदालत में प्रार्थना—पत्र दिया है कि उसकी जन्म तिथि संबंधित ग्राम पंचायत के रिकार्ड में दर्ज नहीं है उसकी जन्म तिथि 20-05-1998 है जिसे दर्ज करने के आदेश दिये जायें।

अतः आम जनता को इस नोटिस द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त प्रार्थिया सलोचना पुत्री श्री कृष्ण लाल, निवासी गांव पट्टा, डा० नम्होल, तहसील सदर, जिला बिलासपुर (हि०प्र०) की जन्म तिथि ग्राम पंचायत पंजैल खुर्द, विकास खण्ड सदर, जिला बिलासपुर (हि०प्र०) के रिकार्ड में दर्ज करने के बारा कोई एतराज हो वह दिनांक 09-08-2024 तक किसी भी कार्य दिवस पर असालतन या वकालतन इस कार्यालय में उपस्थित होवें। अन्यथा सलोचना पुत्री श्री कृष्ण लाल, निवासी गांव पट्टा, डा० नम्होल, तहसील सदर, जिला बिलासपुर (हि०प्र०) की जन्म तिथि सम्बंधित ग्राम पंचायत पंजैल खुर्द, विकास खण्ड सदर, जिला बिलासपुर के रिकार्ड में दर्ज करने के आदेश जारी कर दिये जायेंगे।

आज दिनांक 09-07-2024 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ है।

मोहर।

हस्ताक्षरित /—
उप-मण्डल दण्डाधिकारी,
सदर, जिला बिलासपुर (हि०प्र०)।

ब अदालत जनाब उप-मण्डल दण्डाधिकारी, सदर, जिला बिलासपुर (हि०प्र०)

ब मुकदमा श्री पंकज कुमार पुत्र श्री कृष्ण लाल, निवासी गांव खैरिया लुहणू, डा० बामठा, तहसील सदर, जिला बिलासपुर (हि०प्र०)।

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श्रीमती सुकन्या पुत्री श्री नरेश कुमार, निवासी गांव सुनदडू, डा० गेहड़वीं, तहसील झण्डूता, जिला बिलासपुर (हि०प्र०) प्रार्थीगण।

बनाम

आम जनता

विषय.—प्रार्थना—पत्र बराये विवाह पंजीकरण करवाने बारे।

नोटिस बनाम आम जनता।

उपरोक्त मुकदमा उनवान वाला में श्री पंकज कुमार पुत्र श्री कृष्ण लाल, निवासी गांव खैरिया लुहणू, डा० बामटा, तहसील सदर, जिला बिलासपुर (हि०प्र०) व श्रीमती सुकन्या पुत्री श्री नरेश कुमार, निवासी गांव सुनदड़, डा० गेहड़वीं, तहसील झण्डूता, जिला बिलासपुर (हि०प्र०)ने इस अदालत में संयुक्त तौर पर प्रार्थना—पत्र प्रस्तुत किया है जिसके अनुसार उन्होंने व्यक्त किया है कि उन्होंने दिनांक 25–11–2023 को व्यवस्थित विवाह हिन्दू रीत—रिवाजों के अनुसार गोपाल मन्दिर कुनाला बन्दला रोड बिलासपुर में किया है तथा इसकी प्रविष्टी समयबद्ध ग्राम पंचायत बामटा, के रिकार्ड में दर्ज नहीं है अतः विलम्बित अवधि को मर्जित करके उक्त विवाह की प्रविष्टी हेतु सचिव ग्राम पंचायत बामटा, जिला बिलासपुर (हि०प्र०) को निर्देश दिये जावें।

अतः आम जनता को इस नोटिस द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त प्रार्थीगण के विवाह की प्रविष्टी दिनांक 25–11–2023 को दर्ज करने बारा कोई एतराज हो वह दिनांक 10–08–2024 तक या इससे पूर्व किसी भी कार्य दिवस पर असालतन या वकालतन इस कार्यालय में उपस्थित होवें। अन्यथा श्री पंकज कुमार पुत्र श्री कृष्ण लाल, निवासी गांव खैरिया लुहणू, डा० बामटा, तहसील सदर, जिला बिलासपुर (हि०प्र०) व श्रीमती सुकन्या पुत्री श्री नरेश कुमार, निवासी गांव सुनदड़, डा० गेहड़वीं, तहसील झण्डूता, जिला बिलासपुर (हि०प्र०) के विवाह की प्रविष्टी करने हेतु सचिव ग्राम पंचायत बामटा, विकास खण्ड सदर, जिला बिलासपुर (हि०प्र०) को आदेश जारी कर दिये जायेंगे।

आज दिनांक 15–05–2024 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित /—
उप—मण्डल दण्डाधिकारी,
सदर, जिला बिलासपुर (हि०प्र०)।

ब अदालत जनाब उप—मण्डल दण्डाधिकारी, सदर, जिला बिलासपुर (हि०प्र०)

ब मुकदमा श्री कुलदीप सिंह पुत्र श्री शिव राम, निवासी गांव द्रोबड़, डा० धारटटोह, तहसील सदर, जिला बिलासपुर (हि०प्र०)।

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श्रीमती सपना पत्नी श्री कुलदीप सिंह, निवासी गांव द्रोबड़, डा० धारटटोह, तहसील सदर, जिला बिलासपुर (हि०प्र०) प्रार्थीगण।

बनाम

आम जनता

विषय.—प्रार्थना—पत्र बराये विवाह पंजीकरण करवाने बारे।

नोटिस बनाम आम जनता।

उपरोक्त मुकदमा उनवान वाला में श्री कुलदीप सिंह पुत्र श्री शिव राम, निवासी गांव द्रोबड़, डाठोधारटोह, तहसील सदर, जिला बिलासपुर (हि०प्र०) व श्रीमती सपना ने इस अदालत में संयुक्त तौर पर प्रार्थना-पत्र प्रस्तुत किया है जिसके अनुसार उन्होंने व्यक्त किया है कि उन्होंने दिनांक 29-01-2024 को व्यवस्थित विवाह हिन्दू रीति रिवाजों के अनुसार किया है तथा इसकी प्रविष्टि समयबद्ध ग्राम पंचायत के रिकार्ड में दर्ज नहीं है अतः विलम्बित अवधि को मर्जित करके उक्त विवाह की प्रविष्टि हेतु सचिव ग्राम पंचायत द्रोबड़, विकास खण्ड सदर, जिला बिलासपुर (हि०प्र०) को निर्देश दिये जावें।

अतः आम जनता को इस नोटिस द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त प्रार्थित विवाह की प्रविष्टि दिनांक 29-01-2024 को दर्ज करने बारा कोई एतराज हो वह दिनांक 10-08-2024 तक या इससे पूर्व किसी भी कार्य दिवस पर असालतन या वकालतन इस कार्यालय में उपरिथित होवें। अन्यथा श्री कुलदीप सिंह पुत्र श्री शिव राम, निवासी गांव द्रोबड़, डाठोधारटोह, तहसील सदर, जिला बिलासपुर (हि०प्र०) व श्रीमती सपना के विवाह की प्रविष्टि करने हेतु सचिव ग्राम पंचायत द्रोबड़, विकास खण्ड सदर, जिला बिलासपुर (हि०प्र०) को आदेश जारी कर दिये जायेंगे।

आज दिनांक 13-06-2024 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/-
उप-मण्डल दण्डाधिकारी,
सदर, जिला बिलासपुर (हि०प्र०)।

